572-B

code of federal regulations

Agriculture

7

PARTS 53 TO 209
Revised as of January 1, 1986

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Agriculture

7

PARTS 53 TO 209

Revised as of January 1, 1986

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AS OF JANUARY 1, 1986

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***thus:* 7 CFR 53.1**

READEX
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Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

ISSUE DATES

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16..........as of January 1
Title 17 through Title 27..........as of April 1
Title 28 through Title 41..........as of July 1
Title 42 through Title 50..........as of October 1

The appropriate revision date is printed on the cover of each volume.

LEGAL STATUS

The contents of the Federal Register are required to be judicially noticed (44 U.S.C. 1507). The Code of Federal Regulations is prima facie evidence of the text of the original documents (44 U.S.C. 1510).

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The Code of Federal Regulations is kept up to date by the individual issues of the Federal Register. These two publications must be used together to determine the latest version of any given rule.

To determine whether a Code volume has been amended since its revision date (in this case, January 1, 1986), consult the "List of CFR Sections Affected (LSA)," which is issued monthly, and the "Cumulative List of Parts Affected," which appears in the Reader Aids section of the daily Federal Register. These two lists will identify the Federal Register page number of the latest amendment of any given rule.

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Each volume of the Code contains amendments published in the Federal Register since the last revision of that volume of the Code. Source citations for the regulations are referred to by volume number and page number of the Federal Register and date of publication. Publication dates and effective dates are usually not the same and care must be exercised by the user in determining the actual effective date. In instances where the effective date is beyond the cut-off date for the Code a note has been inserted to reflect the future effective date. In those instances where a regulation published in the Federal Register states a

date certain for expiration, an appropriate note will be inserted following the text.

OMB CONTROL NUMBERS

The Paperwork Reduction Act of 1980 (Pub. L. 96-511) requires Federal agencies to display an OMB control number with their information collection request. Many agencies have begun publishing numerous OMB control numbers as amendments to existing regulations in the CFR. These OMB numbers are placed as close as possible to the applicable recordkeeping or reporting requirements.

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Provisions that become obsolete before the revision date stated on the cover of each volume are not carried. Code users may find the text of provisions in effect on a given date in the past by using the appropriate numerical list of sections affected. For the period before January 1, 1973, consult either the List of CFR Sections Affected, 1949-1963, or 1964-1972, published in three separate volumes. For the period beginning January 1, 1973, a "List of CFR Sections Affected" is published at the end of each CFR volume.

INCORPORATION BY REFERENCE

What is incorporation by reference? **Incorporation by reference was established by statute and allows Federal agencies to meet the requirement to publish regulations in the Federal Register by referring to materials already published elsewhere. For an incorporation to be valid, the Director of the Federal Register must approve it. The legal effect of incorporation by reference is that the material is treated as if it were published in full in the Federal Register (5 U.S.C. 552(a)). This material, like any other properly issued regulation, has the force of law.**

What is a proper incorporation by reference? **The Director of the Federal Register will approve an incorporation by reference only when the requirements of 1 CFR Part 51 are met. Some of the elements on which approval is based are:**

(a) The incorporation will substantially reduce the volume of material published in the Federal Register.

(b) The matter incorporated is in fact available to the extent necessary to afford fairness and uniformity in the administrative process.

(c) The incorporating document is drafted and submitted for publication in accordance with 1 CFR Part 51.

Properly approved incorporations by reference in this volume are listed in the Finding Aids at the end of this volume.

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A subject index to the Code of Federal Regulations is contained in a separate volume, revised annually as of January 1, entitled CFR INDEX AND FINDING AIDS. This volume contains the Parallel Table of Statutory Authorities and Agency Rules (Table I), and Acts Requiring Publication in the Federal Register (Table

III). A list of CFR Titles, Chapters, and Parts and an alphabetical list of agencies publishing in the CFR are also included in this volume.

An index to the text of "Title 3—The President" is carried within that volume.

The Federal Register Index is issued monthly in cumulative form. This index is based on a consolidation of the "Contents" entries in the daily Federal Register.

A List of CFR Sections Affected (LSA) is published monthly, keyed to the revision dates of the 50 CFR titles.

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There are no restrictions on the republication of material appearing in the Code of Federal Regulations.

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For a summary, legal interpretation, or other explanation of any regulation in this volume, contact the issuing agency. Inquiries concerning editing procedures and reference assistance with respect to the Code of Federal Regulations may be addressed to the Director, Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408 (telephone 202-523-3517). Sales are handled exclusively by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402 (telephone 202-783-3238).

JOHN E. BYRNE,
Director,
Office of the Federal Register.

January 1, 1986.

THIS TITLE

Title 7—AGRICULTURE is composed of sixteen volumes. The parts in these volumes are arranged in the following order: Parts 0-45, Parts 46-51, Part 52, Parts 53-209, Parts 210-299, Parts 300-399, Parts 400-699, Parts 700-899, Parts 900-999, Parts 1000-1059, Parts 1060-1119, Parts 1120-1199, Parts 1200-1499, Parts 1500-1899, Parts 1900-1944, Part 1945-end. The contents of these volumes represent all current regulations codified under this title of the CFR as of January 1, 1986.

An alphabetical list of U.S. standards for grades of processed fruits, vegetables and certain other products appears in the Finding Aids section of the volume containing Part 52.

The Food and Nutrition Service current regulations in the volume containing Parts 210-299, include the Child Nutrition Programs and the Food Stamp Program. The regulations of the Federal Crop Insurance Corporation are found in the volume containing Parts 400-699.

All marketing agreements and orders for fruits, vegetables and nuts appear in the volume containing Parts 900-999. All marketing agreements and orders for milk appear in the three volumes containing Parts 1000-1199. Part 900—General Regulations is carried as a note in each of the three volumes containing Parts 1000-1199, and Part 1000—General Provisions of Federal Milk Marketing Orders is carried as a note in each of the two volumes containing Parts 1060-1199, as a convenience to the user.

For this volume, LaJuana D. Caldwell was Chief Editor. The Code of Federal Regulations publication program is under the direction of Martha B. Girard, assisted by Robert E. Jordan.

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Title 7—Agriculture

(This book contains Parts 53 to 209)

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AUTHORITY: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, 1090, 7 U.S.C. 1622, 1624.

SOURCE: 42 FR 53902, Oct. 4, 1977, unless otherwise noted.

Subpart A—Regulations

DEFINITIONS

§ 53.1 Meaning of words.

Words used in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand. For the purposes of such regulations, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

Acceptance service. The service established and conducted under the regulations for the determination and certification or other identification of the compliance of livestock with specifications.

Act. The Agricultural Marketing Act of 1946 (Title II of the act of Congress approved August 14, 1946, 60 Stat. 1087, as amended by Pub. L. 272, 84th Cong., 69 Stat. 553, 7 U.S.C. 1621-1627).

Administrator. The Administrator of the Agricultural Marketing Service, or any officer or employee of the Agricultural Marketing Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

Agricultural Marketing Service. The Agricultural Marketing Service of the Department.

Applicant. Any person who has applied for service under the regulations.

Branch. The Livestock Market News Branch of the Division.

Chief. The Chief of the Branch, or any officer or employee of the Branch to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

Class. A subdivision of livestock based on essential physical characteristics that differentiate between major groups of the same kind of species.

Compliance. Conformity of livestock to the specifications under which the livestock was purchased or sold, with particular reference to the weight, quality or other characterics of livestock.

Cooperative agreement. A cooperative agreement between the Agricultural Marketing Service and another Federal agency or a State agency, or other agency, organization or person as specified in the Agricultural Marketing Act of 1946, as amended, for conducting the service.

Department. The United States Department of Agriculture.

Director. The Director of the Division or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

Division. Livestock, Poultry, Grain and Seed Division.

Financially interested person. Any person having a financial interest in the livestock involved, including but not limited to the shipper, receiver, producer, seller, buyer, or carrier of the livestock or products.

Grade. (1) As a noun, this term means an important commercial subdivision of livestock based on certain definite and preference determining factors, such as, but not limited to, conformation, finish, and muscling in livestock.

(2) As a verb, this term means to determine the class, grade, or other quality of livestock according to applicable standards for such livestock in Subpart B of this part.

Grading service. The service established and conducted under the regulations for the determination and certification or other identification of the class, grade, or other quality of livestock under standards.

Legal holiday. Those days designated as legal public holidays in title 5, United States Code, section 6103(a).

Livestock. Cattle, sheep, swine, or goats.

Official grader. An employee of the Department or other person authorized by the Department to determine and certify or otherwise identify the class, grade, other quality, or compliance of livestock under the regulations.

Person. Any individual, partnership, corporation, or other legal entity, or Government agency.

Regulations. The regulations in this subpart.

Service. Grading service or acceptance service.

Specifications. Description with respect to the class, grade, other quality, quantity or condition of livestock approved by the Administrator, and available for use by the industry regardless of the origin of the descriptions.

Standards. The standards of the Department contained in Subpart B of this part.

Supervisor. An official person designated by the Director or Chief to supervise and maintain uniformity and accuracy of service under the regulations.

§ 53.2 Designation of official certificates, memoranda, marks, other identifications, for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Pub. L. 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, including that prescribed in § 53.16, used under the regulations to certify with respect to the inspection, class, grade, quality, size, quantity, or condition of livestock with applicable specifications.

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, determining compliance, or inspecting, pursuant to the regulations, any processing or plant-operation report made by an authorized person in connection with grading, determining compliance, inspecting, or sampling under the regulations, and any report made by an authorized person of services performed pursuant to the regulations.

(c) "Official mark" or "other official identification" means any form of mark or other identification, used under the regulations in marking livestock thereof, to show inspection, class, grade, quality, size, quantity, or condition of the livestock (including the compliance of livestock with applicable specifications), or to maintain the identity of livestock for which service is provided under the regulations.

ADMINISTRATION

§ 53.3 Authority.

The Director is charged with the administration of the regulations and the Act insofar as they relate to livestock.

SERVICE

§ 53.4 Kind of service.

Grading service under the regulations shall consist of the determination and certification and other identification, upon request by the applicant, of the class, grade, or other quality of livestock under applicable standards in Subpart B of this part. Class, grade and other quality may be determined under said standards for livestock. Acceptance service under the regulations shall consist of the determination of the conformity of livestock to specifications approved by the Director or Chief and the certification and other identification of such livestock in accordance with specifications, upon request by the applicant.

§ 53.5 Availability of service.

Service under these regulations may be made available with respect to livestock shipped or received in interstate commerce, and with respect to the livestock not so shipped or received if the Director or Chief determines that the furnishing of service for such livestock would facilitate the marketing, distribution, processing, or utilization of agricultural products through commercial channels. Also, such service may be made available under a cooperative agreement. Service under these regulations shall be provided without discrimination as to race, color, sex, creed, or national origin.

§ 53.8 How to obtain service.

(a) *Application.* Any person may apply to the Director or Chief for service under the regulations with respect to livestock in which the applicant is financially interested. The application shall be made on a form approved by the Director.

(b) *Notice of eligibility for service.* The applicant for service will be notified whether his application is approved.

(c) *Request by applicant for service*—(1) *Noncommitment.* Upon notification of the approval on an application for service, the applicant may, from time to time as desired, make oral or written requests for service under the regulations with respect to specific livestock for which the service is to be furnished under such application. Such requests shall be made at a market news office either directly or through any employee of the Agricultural Marketing Service who may be designated for such purposes.

§ 53.9 Order of furnishing service.

Service under the regulations shall be furnished to applicants in the order in which requests therefor are received, insofar as consistent with good management, efficiency and economy. Precedence will be given, when necessary, to requests made by any government agency or any regular user of the service.

§ 53.10 When request for service deemed made.

A request for service under the regulations shall be deemed to be made when received by a market news office. Records showing the date and time of the request shall be made and kept in such office.

§ 53.11 Withdrawal of application or request for service.

An application or a request for service under the regulations may be withdrawn by the applicant at any time before the application is approved or prior to performance of service, upon payment, in accordance with §§ 53.18 and 53.19, of any expenses already incurred by the Agricultural Marketing Service in connection therewith.

§ 53.12 Authority of agent.

Proof of the authority of any person making an application or a request for service under the regulations on behalf of any other person may be required at the discretion of the Director or Chief or the official in charge of the market news office or other employee receiving the application or request under § 53.8.

§ 53.13 Denial or withdrawal of service.

(a) *For misconduct*—(1) *Bases for denial or withdrawal.* An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person who, or whose employee or agent in the scope of his employment or agency: (i) Has wilfully made any misrepresentation or has committed any other fraudulent or deceptive practice in connection with any application or request for service under the regulations; (ii) has given or attempted to give, as a loan or for any other purpose, any money, favor, or other thing of value, to any employee of the Department authorized to perform any function under the regulations; (iii) has interfered with or obstructed, or attempted to interfere with or to obstruct, any employee of the Department in the performance of his duties under the regulations by intimidation, threats, assaults, abuse, or any other improper means; (iv) has knowingly falsely made, issued, altered, forged, or counterfeited any official certificate, memorandum, mark, or other identification; (v) has knowingly uttered, published, or used as true any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device; (vi) has knowingly obtained or retained possession of any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device, or of any livestock bearing any such falsely made, issued, altered, forged, or counterfeited mark or identification; or (vii) has in any manner not specified in this paragraph violated subsection 203(h) of the Act: *Provided,* That paragraph (a)(1)(vi) of this section shall not be deemed to be violated if the person in possession of any item mentioned therein notifies the Director or Chief without delay that he has possession of such item and, surrenders it to the Director or Chief or destroys it or brings it into compliance with the regulations by obliterating or removing the violative features under supervision of the Director or Chief: *And provided, further,* That paragraph (a) (1) (ii) through (vi) of this section shall not be deemed to be violated by any act committed by any person prior to the making of an application for service under the regulations by the principal person. An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person who, or whose employee or agent in the scope of his employment or agency, has committed any of the offenses specified in paragraph (a)(1) (i) through (vii) of this section after such application was made. Moreover, an application or a request for service made in the name of a person otherwise eligible for service under the regulations may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, such a person (*a*) in case the service is or would be performed at an establishment operated (*1*) by a corporation, partnership, or other person from whom the benefits of the service are currently being withheld under this paragraph, or (*2*) by a corporation, partnership, or other person having an officer, director, partner, or substantial investor from whom the benefits of the service are currently being withheld and who has any authority with respect to the establishment where service is or would be performed, or (*b*) in case the service is or would be performed with respect to any livestock in which any corporation, partnership, or other person within paragraph (a)(1)(vii)(*a*)(*1*) of this section has a contract or other financial interest.

(2) *Procedure.* All cases arising under this paragraph shall be conducted in accordance with the rules of practice governing withdrawal of inspection and grading service under the Agricultural Marketing Act of 1946 as contained in Part 50 of this chapter.

(b) *For miscellaneous reasons.* An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person, without a hearing, by the official in charge of the appropriate market news office with the concurrence of the Director or Chief: (1) For administrative reasons such as the nonavailability of personnel to perform the service; (2) for the failure to pay for service; (3) for other noncompliance with the conditions on which service is available as provided in the regulations, except matters covered by paragraph (a) of this section; or (4) in case the person is a partnership, corporation, or other person from whom the benefits of the service are currently being withheld under paragraph (a) of this section. Notice of such denial or withdrawal, and the reasons therefor, shall promptly be given to the person involved.

(c) *Filing of records.* The final orders in formal proceedings under paragraph (a) of this section to deny or withdraw the service under the regulations (except orders required for good cause to be held confidential and not cited as precedents) and other records in such proceedings (except those required for good cause to be held confidential) shall be filed with the Hearing Clerk and shall be available for inspection by persons having a proper interest therein.

§ 53.14 Financial interest of official grader.

No official grader shall grade or determine compliance of any livestock in which he or any of his relatives by blood or marriage is directly or indirectly financially interested.

§ 53.15 Accessibility to livestock.

(a) The applicant shall cause livestock, with respect to which service is requested, to be made easily accessible for examination and to be so placed, with adequate illuminating facilities, as to disclose their class, grade, other quality, and compliance. Supervisors and other employees of the Department responsible for maintaining uniformity and accuracy of service under the regulations shall have access to all parts of establishments covered by approved applications for service under the regulations, for the purpose of examining all livestock in the establishments which have been or are to be graded or examined for compliance with specifications.

§ 53.16 Official certificates.

(a) *Required; exception.* The official grader shall prepare, sign, and issue a livestock acceptance certificate covering livestock for which compliance has been determined.

(b) Where weight is certified, the word "Not" shall be deleted from the phrases "Weights Not Verified."

(c) *Distribution.* The original certificate, and not to exceed two copies, shall be delivered or mailed to the applicant or other person designated by him. The remaining copies shall be forwarded as required by agency, division, and branch instructions. Additional copies will be furnished to any person financially interested in livestock involved with the concurrence of the applicant and upon payment of fees, as provided in § 53.18(d).

§ 53.17 Advance information concerning service rendered.

Upon request of any applicant, all or any part of the contents of any certificate issued to him under the regulations, or other notification concerning the determination of class, grade, other quality, or compliance of livestock for such applicant may be transmitted by telegraph or telephone to him, or to any person designated by him, at his expense.

CHARGES FOR SERVICE

§ 53.18 Fees and other charges for service.

Fees and other charges equal as nearly as may be to the cost of the services rendered shall be assessed and collected from applicants in accordance with the following provisions unless otherwise provided in the cooperative agreement under which the services are furnished, or as provided in § 53.8.

(a) *Fees based on hourly rates.* Except as otherwise provided in this section, fees for service shall be based on the time required to render the service, calculated to the nearest 15-minute period, including time required for the preparation of certificates and travel of the official grader in connection with the performance of service. A minimum charge for 1 hour shall be made for service pursuant to each request notwithstanding that the time required to perform service may be less than 60 minutes. The base hourly rate shall be $29.40 per hour for work performed between the hours of 6 a.m. and 6 p.m., Monday through Friday, except on legal holidays; $32.80 per hour for work performed before 6 a.m. or after 6 p.m., Monday through Friday, and anytime Saturday or Sunday except on legal holidays; and $58.80 per hour for all work performed on legal holidays.

(b) *Travel charges.* When service is requested at a place so distant from an official grader's headquarters, or place of prior assignment on a circuitous routing that a total of one-half hour or more is required for the grader to travel to such place and back to the headquarters, or to the next place of assignment on a circuitous routing, the charge for such service shall include a mileage charge administratively determined by the Chief, and travel tolls, if applicable, for such travel prorated against all the applicants furnished the service involved on an equitable basis, or where the travel is made by public transportation (including hired vehicle), a fee equal to the actual cost thereof. However, the applicant will not be charged a new mileage rate without notification before the service is rendered.

(c) *Per diem charges.* When service is requested at a place away from the official grader's headquarters, the fee for such service shall include a per diem charge if the employee performing the service is paid per diem in accordance with existing travel regulations. Per diem charges to applicants will cover the same period of time for which the grader receives per diem reimbursement. The per diem rate will be administratively determined by the Chief. However, the applicant will not be charged a new per diem rate without notification before the service is rendered.

(d) *Fees for extra copies of certificates.* In addition to copies of certificates furnished under § 53.16, any financially interested person may obtain not to exceed three copies of any such certificate within 1 year from its date of issuance upon payment of a fee of $1.00, and not to exceed three copies of any such certificate at any time thereafter, while a copy of such certificate is on file in the Department, upon payment of a fee of $5.00.

(e) *Other charges.* When costs, other than costs specified in paragraphs (a), (b), (c), and (d) of this section, are involved in providing the services, the applicant will be charged for these costs. The amount of these charges will be determined administratively by the Chief. However, the applicant will not be charged for such cost without notification before the service is rendered of the charge for such item of expense.

[42 FR 53902, Oct. 4, 1977, as amended at 47 FR 54927, Dec. 7, 1982; 48 FR 16874, Apr. 20, 1983]

§ 53.19 Payment of fees and other charges.

Fees and other charges for service shall be paid in accordance with the following provisions unless otherwise provided in the cooperative agreement under which the service is furnished. Upon receipt of billing for fees and other charges for service the applicant shall remit by check, draft, or money order, made payable to the Agricultural Marketing Service, U.S.D.A., payment for the service in accordance with directions on the billing, and such fees and charges shall be paid in advance if required by the official grader or other authorized official.

MISCELLANEOUS

§ 53.20 Identification.

All official graders and supervisors shall have their Agricultural Marketing Service identification cards in their possession at all times while they are performing any function under the regulations and shall identify themselves by such cards upon request.

§ 53.21 Errors in service.

When an official grader, supervisor, or other responsible employee of the Branch has evidence of misgrading, or of incorrect certification or other incorrect determination or identification as to the class, grade, other quality, or compliance of livestock, he shall report the matter to his immediate supervisor. The supervisor will investigate the matter and, if he deems advisable, will report it to the owner or his agent. The supervisor shall take appropriate action to correct errors found in the determination or identification of class, grade or other quality or compliance of livestock if the livestock is still owned by the person who owned them when, and are still located at the establishment where, the incorrect service was rendered and if such service was rendered by a grader under the jurisdiction of such supervisor, and the supervisor shall take adequate measures to prevent the recurrence of such errors.

Subpart B—Standards

VEALERS AND SLAUGHTER CALVES

§ 53.120 Differentiation between vealers and calves.

Young bovine animals are segregated for market purposes as vealers or calves and this differentiation is intended to reflect the kind of carcass (veal or calf) they will produce. The differentiation between veal and calf carcasses is based very largely on the color of their lean and this is determined almost entirely by the extent to which the animal's diet has consisted of milk or a milk replacer. Therefore, the differentiation between vealers and calves is based primarily on evidences of type of feeding and age. Vealers that have subsisted largely on milk usually are less than 3 months of age. However, animals that have been raised on milk replacer rations frequently will be considerably more mature. In no case, though, may such an animal be considered a vealer if its evidences of maturity indicate that it is too mature to be classed as calf. Since vealers have consumed little, if any, roughages, they have the characteristic trimness of middle associated with limited paunch development. Calves are usually between 3 and 8 months of age, have subsisted partially or entirely on feeds other than milk or milk replacers for a substantial period of time, and have developed the heavier middles and other physical characteristics associated with maturity beyond the vealer stage.

§ 53.121 Classes of vealers and calves.

There are three classes of vealers and calves, based on sex condition—steers, heifers, and bulls. While recognition may sometimes be given to these different classes on the market, especially bull calves approaching beef in maturity, the market desirability of all three classes is sufficiently similar to permit them to be graded on the same standards.

§ 53.122 Application of standards.

(a) The grade of a vealer or slaughter calf is determined by a composite evaluation of two general considerations which influence carcass excellence: (1) Conformation and (2) fatness, maturity, and other factors responsible for differences in quality of the lean flesh.

(b) Conformation refers to the general body proportions of the animal and to the ratio of meat to bone. Although primarily determined by the inherent muscular and skeletal systems, it is also influenced by the degree of fatness. Excellent conformation in vealers and slaughter calves is denoted by a wide-topped, straight-lined, thick-fleshed individual that is deep and full in the twist.

(c) In grading vealers and slaughter calves, quality of the lean flesh must necessarily be evaluated indirectly from consideration, primarily, of the quantity, distribution, and type of fat or finish. Limited consideration is also given to such factors as the refinement of hair, hide, and bone and the smoothness and symmetry of the body. Finish is evaluated by noting variations in fullness in the brisket, flanks, and cod or udder and the apparent thickness of the fat covering over the back, loin, ribs, and legs.

(d) Since relatively few vealers or calves have an identical development of conformation and quality, it is obvious that each grade will include animals having various combinations of these two characteristics. Examples of how conformation and quality are combined into the final quality grade are included in each of the grade descriptions. However, the principles governing the compensation of variations in development of quality and conformation are as follows: In each of the grades superior quality is permitted to compensate for deficient conformation, without limit. The reverse type of compensation—superior conformation for inferior quality—is not permitted in the Prime and Choice grades. To qualify for one of these grades, a slaughter animal must have the minimum requirements specified for quality regardless of how much the conformation may exceed the minimum specified. In all other grades, such compensation is permitted but only to the extent of one-third of a grade of deficient quality. For both types of compensation, the rate of compensation is equal—a given degree of superior quality compensates for the same degree of deficient conformation and vice versa.

(e) Other factors—such as heredity and management—also may affect the development of grade-determining characteristics in vealers and calves. Although these factors do not lend themselves to descriptions in the standards, the use of factual information of this nature is justified in determining the grade of vealers and slaughter calves.

(f) Vealers or calves qualifying for any particular grade may vary with respect to the relative development of the individual grade factors. In fact, some will qualify for a particular grade although they have some characteristics more nearly typical of animals of another grade. Because it is impractical to describe the nearly infinite number of such recognizable combinations of characteristics, the standards described only vealers and calves which have a relatively similar development of individual conformation and quality factors and which are also representative of the lower limits of each grade.

§ 53.123 Specifications for official U.S. standards for grades of vealers.

(a) *Prime.* (1) Vealers possessing minimum qualifications for the Prime grade tend to be moderately thick muscled throughout. They are moderately wide over the back and loin, and shoulders and hips are usually moderately neat and smoothly laid in, with only a slight tendency toward prominence. The loin, rump, and rounds appear almost flat, with little evidence of fullness. Prime grade vealers tend to have a very thin fat covering over the back, loin, and upper ribs. The brisket, rear flanks, and cod or udder are slightly full. Prime grade vealers usually present a moderately refined appearance.

(2) To qualify for the Prime grade, vealers must possess the minimum evidences of quality specified regardless of the extent to which their conformation may exceed the minimum requirements for Prime. However, quality superior to that specified as the minimum for the Prime grade may compensate, without limit, for conformation inferior to that specified as the minimum for Prime at the rate indicated in the following example: Vealers which have quality equivalent to the midpoint of the Prime grade may have conformation equivalent to the midpoint of the Choice grade and remain eligible for Prime.

(b) *Choice.* (1) Vealers possessing minimum qualifications for Choice tend to be slightly thick muscled throughout. They are slightly wide over the back and loin, the shoulders and hips are slightly prominent, and the neck is slightly long and thin. The loin, rump, and rounds have a very slightly sunken or hollowed-out appearance. The fat covering is very limited and is discernible only over portions of the back and loin. The brisket, rear flanks, and cod or udder have small fat deposits but have no apparent fullness. Choice grade vealers are usually moderately smooth and slightly refined in appearance.

(2) To qualify for the Choice grade, vealers must possess the minimum evidences of quality specified regardless of the extent to which their conformation may exceed the minimum requirements for Choice. However, quality which is superior to that specified as the minimum for the Choice grade may compensate, without limit, for conformation which is inferior to that specified as the minimum for Choice at the rate indicated in the following example: Vealers which have quality equivalent to the midpoint of the Choice grade may have conformation equivalent to the midpoint of the Good grade and remain eligible for Choice.

(c) *Good.* (1) Vealers possessing minimum requirements for the Good grade tend to be thinly muscled throughout. They are narrow over the back, loin, and rump and shallow in the twist. They have a distinctly sunken or hollowed-out appearance over the back, loin, and rounds. Hips and shoulders appear moderately prominent. There is practically no fat covering on any part of the animal's body. Such vealers may show the heavy bones, thick hide, prominent hips and shoulders associated with coarseness, or they may show the small bones, tight hide, and angularity denoting overrefinement.

(2) Quality superior to that specified as the minimum for the Good grade may compensate, without limit, for conformation inferior to that specified as the minimum for Good at the rate indicated in the following example: Vealers with quality equivalent to the midpoint of the Good grade may have conformation equivalent to the midpoint of the Standard grade and remain eligible for Good. Also, vealers with conformation at least one-third of a grade superior to that specified as minimum for the Good grade may have quality equal to the lower limit of the upper third of the Standard grade and remain eligible for Good.

(d) *Standard.* (1) Vealers possessing minimum requirements for the Standard grade tend to be very thinly muscled throughout and tend to be very narrow over the back, loin, and rump and very shallow in the twist. Hips and shoulders are very prominent, and the crops, back, loin, rump, and rounds present a very sunken or hollowed-out appearance. They show no evidence of any fat covering. Standard vealers tend to be of low quality. The bones and joints are usually disproportionately large and the hide is either thick or tight and inelastic.

(2) Quality superior to that specified as minimum for the Standard grade may compensate, without limit, for conformation inferior to that specified as minimum for the Standard grade at the rate indicated in the following example: Vealers with quality equivalent to the midpoint of the Standard grade may have conformation equivalent to the midpoint of the Utility grade and remain eligible for Standard. Also, vealers with conformation at least one-third of a grade superior to that specified as minimum for the Standard grade may have quality equal to the lower limit of the upper third of the Utility grade and remain eligible for Standard.

(e) *Utility.* The Utility grade includes vealers whose characteristics are inferior to those specified as minimum for the Standard grade.

§ 53.124 Specifications for official U.S. standards for grades of slaughter calves.

(a) *Prime.* (1) Calves possessing minimum qualifications for the Prime grade tend to be moderately thick muscled throughout. They are moderately wide over the back and loin, and shoulders and hips are usually moderately neat and smoothly laid in. There is a slight fullness or plumpness over the crops, loin, rump, and rounds which contributes to a rather well-rounded appearance. Prime grade calves tend to have a slightly thick fat covering over the back, loin, rump, and upper ribs. The brisket, rear flanks, and cod or udder are moderately full. Prime grade calves usually present a moderately refined appearance.

(2) To qualify for the Prime grade, slaughter calves must possess the minimum evidences of quality specified regardless of the extent to which their conformation may exceed the minimum requirements for Prime. However, quality superior to that specified as the minimum for the Prime grade may compensate, without limit, for conformation inferior to that specified as the minimum for Prime at the rate indicated in the following example: Slaughter calves which have quality equivalent to the midpoint of the Prime grade may have conformation equivalent to the midpoint of the Choice grade and remain eligible for Prime.

(b) *Choice.* (1) Calves possessing minimum qualifications for the Choice grade tend to be slightly thick muscled throughout. They are slightly wide over the back and loin. The neck is slightly long and thin. The loin, rump, and rounds are almost flat and have little or no evidence of fullness. The shoulders and hips are moderately neat and smoothly laid in but may appear slightly prominent. There is a thin fat covering over the back, loin, and upper ribs. The brisket, rear flanks, and cod or udder tend to be slightly full. Choice grade calves are usually moderately smooth and slightly refined in appearance.

(2) To qualify for the Choice grade, slaughter calves must possess the minimum evidences of quality specified regardless of the extent to which their conformation may exceed the minimum requirements for Choice. However, quality which is superior to that specified as the minimum for the Choice grade may compensate, without limit, for conformation which is inferior to that specified as the minimum for Choice at the rate indicated in the following example: Slaughter calves which have quality equivalent to the midpoint of the Choice grade may have conformation equivalent to the midpoint of the Good grade and remain eligible for Choice.

(c) *Good.* (1) Calves possessing minimum requirements for the Good grade tend to be thinly muscled throughout. They are narrow over the back, loin, and rump and shallow in the twist and have a slightly sunken or hollowed-out appearance over the back, loin, and rounds. Hips and shoulders appear somewhat prominent. There is a very thin fat covering that is discernible only over the back and loin. Such calves may show the heavy bones, thick hide, prominent hips and shoulders associated with coarseness; or they may show the small bones, tight hide, and angularity denoting overrefinement.

(2) Quality superior to that specified as the minimum for the Good grade may compensate, without limit, for

conformation inferior to that specified as the minimum for Good at the rate indicated in the following example: Calves with quality equivalent to the midpoint of the Good grade may have conformation equivalent to the midpoint of the Standard grade and remain eligible for Good. Also, calves with conformation at least one-third of a grade superior to that specified as minimum for the Good grade may have quality equal to the lower limit of the upper third of the Standard grade and remain eligible for Good.

(d) *Standard.* (1) Calves possessing minimum requirements for the Standard grade tend to be very thinly muscled throughout and are very narrow over the back, loin, and rump, and very shallow in the twist. Hips and shoulders are very prominent and the crops, back loin, rump, and rounds present a very sunken or hollowed-out appearance. There is practically no fat on any part of the animal's body. The bones and joints are usually disproportionately large, and the hide is either thick or tight and inelastic.

(2) Quality superior to that specified as minimum for the Standard grade may compensate, without limit, for conformation inferior to that specified as minimum for the Standard grade at the rate indicated in the following example: Calves with quality equivalent to the midpoint of the Standard grade may have conformation equivalent to the midpoint of the Utility grade and remain eligible for Standard. Also, calves with conformation at least one-third of a grade superior to that specified as minimum for the Standard grade may have quality equal to the lower limit of the upper third of the Utility grade and remain eligible for Standard.

(e) *Utility.* The Utility grade includes slaughter calves whose characteristics are inferior to those specified as minimum for the Standard grade.

Slaughter Lambs, Yearlings, and Sheep

§ 53.130 Market sheep.

The official standards for market sheep, developed by the United States Department of Agriculture, provide for segregation according to (a) use as slaughter animals or feeders; (b) class or sex conditions; (c) age group; and (d) grade, which is determined by the apparent relative excellence and desirability of the individual animal for a particular use.

§ 53.131 Slaughter classes and market groups.

The classes of slaughter sheep are ram, ewe, and wether; the age groups are lambs, yearlings, and sheep. Definitions of the respective classes and age groups are as follows:

(a) *Ram.* A ram is an uncastrated male ovine.

(b) *Ewe.* A ewe is a female ovine.

(c) *Wether.* A male ovine castrated when young and prior to developing the secondary physical characteristics of a ram.

(d) *Lamb.* A lamb is an immature ovine, usually under 14 months of age, that has not cut its first pair of permanent incisor teeth.

(e) *Yearling.* A yearling is an ovine usually between one and two years of age, that has cut its first pair of permanent incisor teeth but has not cut the second pair.

(f) *Sheep.* A sheep is an ovine, usually over 24 months of age, that has cut its second pair of permanent incisor teeth.

§ 53.132 Application of standards.

(a) *Grade factors.* Grades of slaughter ovine are intended to be directly related to the grades of the carcasses they produce. To accomplish this, these slaughter ovine grade standards are based on factors which are directly related to the quality grades and the yield grades of ovine carcasses. The standards are written so that the quality and yield grade standards are contained in separate sections. The quality grade standards are divided into three sections applicable to slaughter lambs, slaughter yearlings, and slaughter sheep. There are four quality grades within each class—Prime, Choice, Good, and Utility for lambs and yearlings; and Choice, Good, Utility, and Cull for sheep. Also, there are five yield grades applicable to all classes of slaughter ovine, denoted by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability.

(b) *General princples.* (1) The determination of the carcass grade that the slaughter animal will produce requires the exercise of well-regulated judgment. Each animal presents a different combination of the grade-determining factors. Animals frequently have characteristics associated with two or more grades. Therefore, a composite evaluation of all inherent physical characteristics is essential for accuracy in determining grade.

(2) The accurate determination of the grade of a slaughter ovine requires handling in addition to visual observation. The length and density of the fleece vary greatly with individuals and the thickness and firmness of the flesh covering of wooled ovine can only be roughly estimated without handling. The technique used in handling usually varies with the degree of precision in mind as well as the experience of the grader. Experienced graders may find one quick handling satisfactory. This usually consists of placing one open hand over the back and ribs in simultaneous motion. The thumb extends just over the backbone, while the fingers, which are held close together, cover the rib section and pressure is applied very lightly with a slight lateral and forward and backward motion. The generally accepted technique of handling ovine where time permits, and especially when noting slight differences between individuals, is to handle forward from the dock to neck with the open hand, fingers together, laid flat and with a slight lateral motion. Both hands may then be used, one on each side, in a similar manner to determine the fleshing over the shoulders, ribs, and hips. Regardless of the method, considerable experience is necessary in handling ovine to accurately determine the grade.

(c) *Quality grades.* (1) The quality grade of a slaughter ovine is determined by a composite evaluation of two general considerations which influence carcass excellence: Conformation and quality—fatness, maturity, and other indicators of differences in palatability of the lean flesh.

(2) Conformation refers to the general body proportions of the animal and to the ratio of meat to bone. Although primarily determined by the inherent muscular and skeletal systems, it is also influenced by the degree of fatness. However, external fat in excess of that normally left on retail cuts is not considered in evaluating conformation. The conformation descriptions included in each of the grade specifications refer to the thickness of muscling and to an overall degree of thickness and fullness of the animal. Slaughter ovine which meet the requirements for thickness of muscling specified for a grade will be considered to have conformation adequate for that grade despite the fact that, because of a lack of fatness, they may not have the overall degree of thickness and fullness described. Conformation is evaluated by averaging the conformation of the various component parts, giving special consideration to those parts of the body producing the more desirable cuts of meat—loin, hotel rack, and leg.

(3) In grading slaughter ovine, quaity of the lean must be evaluated indirectly by considering the quantity, distribution, and type of fat or finish in relation to the maturity of the animal being graded. Limited consideration is also given to such factors as character of bone and smoothness and symmetry of body. Finish is evaluated by noting variations in the fullness and apparent thickness of the fat covering over the back, loin, ribs, and legs. A high degree of desriable finish is evidenced by a firm, smooth layer of fat which is uniformly distributed over the body.

(4) Although the market designation of slaughter ovine is usually made by classes, the quality standards are intended to apply to all classes without regard to sex condition. However, male animals which have thick heavy necks and shoulders typical of uncastrated males are discounted in grade in proportion to the extent to which these characteristics are developed. Such discounts may vary from less than half a grade in young lambs in which such characteristics are barely noticeable, to as much as two full grades in

mature rams in which such characteristics are very pronounced.

(d) *Yield grades.* (1) The yield grades for slaughter ovine are based on the same factors used in the official yield grade standards for ovine carcasses. These factors are as follows:

(i) *Thickness of fat over ribeye.* As the amount of external fat increases, the percent of retail cuts decreases and the numerical yield grade increases. Assuming no change in the other factors, each 0.15 inch change in adjusted fat thickness over the ribeye changes the yield grade by a full grade. On slaughter ovine which do not have a normal distribution of external fat, the fat thickness estimate over the ribeye may be adjusted, as necessary, to reflect unusual amounts of fat on other parts of the animal.

(ii) *Percent of kidney and pelvic fat.* As the amount of these fats increases, the percent of retail cuts decreases. A change of 4 percent of the carcass weight in kidney and pelvic fat changes the yield grade by a full grade.

(iii) *Leg conformation grade.* An increase in the conformation grade of the legs increases the percent of retail cuts. A change of two full grades in conformation of the legs changes the yield grade by approximately one-third of a yield grade.

(2) When evaluating slaughter ovine for yield grade, each of these factors can be estimated and the yield grade determined therefrom by using the equation contained in the official standards for yield grades of lamb, yearling mutton, and mutton carcasses. However, a more practical method of appraising slaughter ovine for yield grade is to use only two factors normally considered in evaluating live ovine—degree of fatness and leg conformation. In this approach, the degree of fatness largely accounts for the effects of thickness of fat over the ribeye and the percent of kidney and pelvic fat.

(3) The overall fatness of an animal can be determined best by giving particular attention to those parts on which fat is deposited at a faster-than-average rate. These include the back, loin, rump, flank, breast, and cod or udder. As ovine increase in fatness, these parts become progressively fuller, thicker, and more distended in relation to the thickness and fullness of the other parts, particularly the legs. However, since an animal's thickness of muscling also affects the development of its various parts, this also needs to be considered when evaluating the degree of fatness. In thinly muscled ovine with a low degree of finish, the width of the back usually will be greater than the width through the center of the legs. Conversely, in thickly muscled ovine with a low degree of finish, the thickness through the legs will be greater than through the back and the back will be full and rounded. At an intermediate degree of fatness, ovine which are thinly muscled will be considerably wider through the back than through the leg and will be nearly flat across the back. Thickly muscled ovine that have an intermediate degree of fatness will be about the same width through the legs as through the back and the back will appear only slightly rounded. Very fat ovine will be wider through the back than through the legs, but this difference will be greater in thinly muscled ovine than in those that are thickly muscled. As ovine increase in fatness, they also become deeper bodied because of large deposits of fat in the flanks and breast and along the underline. In determining yield grade, variations in fatness are of very much greater importance than variations in conformation of the leg.

(e) *Other considerations.* (1) Other factors such as sex, heredity, and management also may affect the development of grade-determining characteristics in slaughter ovine. Although these factors do not lend themselves to descriptions in the standards, the use of factual information of this nature is justified in determining the grade of slaughter ovine. The ability to make proper allowances for the effects of genetic and management factors on the appearance of grade-determining characteristics must be developed through experience.

(2) Slaughter ovine qualifying for any particular grade may vary with respect to the relative development of their individual grade factors. In fact, some will qualify for a particular

grade although they have some characteristics more typical of ovine of another grade. Because it is impractical to describe the nearly infinite number of such recognizable combinations of characteristics, the standards describe only ovine which have a relatively similar development of the various quality and yield grade-determining factors and which are near the lower limits of quality or yield for the grade. However, examples of the extent to which superiority in quality-indicating characteristics may compensate for deficiencies in conformation, and vice versa, are indicated for each quality grade. In the slaughter lamb quality grade standards, the requirements are given for two maturity groups. In the yield grade standards, ovine with two levels of muscling are described and specific examples in terms of carcass characteristics also are included.

[49 FR 43036, Oct. 26, 1984]

§ 53.133 Specifications for Official U.S. Standards for Grades of Slaughter Lambs (Quality).

(a) *Prime.* (1) Slaughter lambs having minimum conformation requirements for the Prime grade tend to be thickly muscled throughout, and they are moderately wide and thick in relation to their length and height. The are moderately wide over the back, loin, and rump. Shoulders and hips are usually moderately smooth. The twist is moderately deep and full, and the legs are moderately large and plump. They generally present a well-rounded appearance due to a slight fullness or plumpness over the crops, loins, and rump. Relatively young lambs, under seven months of age, tend to have a moderately thin fat covering over the back, ribs, loins, and rump. In handling, the backbone and ribs are readily discernible. Older, more mature lambs have a slightly thin fat covering over the back, ribs, loin, and rump. In handling, the backbone and ribs are slightly discernible. Prime grade lambs exhibit evidences of rather high quality. The bones tend to be proportionately small, the joints tend to be smooth, and the body tends to be smooth and symmetrical.

(2) To qualify for the Prime grade, a lamb must possess the minimum qualifications for finish regardless of the extent that its conformation may exceed the minimum requirements for Prime. However, a development of finish which is superior to that specified as minimum for the Prime grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified for Prime as indicated in the following example: A lamb which has evidences of finish equivalent to the midpoint of the Prime grade may have conformation equivalent to the midpoint of the Choice grade and remain eligible for Prime. However, in no instance may a lamb be graded Prime which has a development of conformation inferior to that specified as minimum for the Choice grade.

(b) *Choice.* (1) Slaughter lambs having minimum conformation requirements for the Choice grade are slightly thick muscled throughout, and they tend to be slightly wide and thick in relation to their length and height. They tend to be slightly wide over the back, loin, and rump. The shoulders and hips are usually slightly smooth but may exhibit a slight tendency toward prominence. The twist tends to be slightly deep and full, and the legs tend to be slightly thick and plump. Relatively young lambs, under seven months of age, have a thin fat covering over the back, ribs, loin, and rump. In handling, the backbone and ribs are moderately prominent. Older, mature lambs have a moderately thin fat covering over the back, ribs, loin, and rump. In handling, the backbone and ribs are slightly prominent. Choice grade lambs usually present a moderately refined appearance.

(2) A development of quality which is superior to that specified as minimum for the Choice grade may compensate, on a equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A lamb which has evidences of quality equivalent to the midpoint of the Choice grade may have conformation equivalent to the midpoint of the Good grade and remain eligible for Choice. However, in no instance may a lamb be graded Choice which has a development of conformation inferior to

that specified as minimum for the Good grade. Also, a lamb which has conformation at least one-third grade superior to that specified as minimum for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper one-third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.

(c) *Good.* (1) Slaughter lambs having minimum conformation requirements for the Good grade are slightly thin muscled throughout, and are moderately narrow in relation to their length and height and are slightly narrow over the back, loin, and rump. Hips and shoulders are moderately prominent. The twist is slightly shallow and the legs are slightly small and thin. Relatively young lambs, under seven months of age, have slightly more than a very thin, uneven fat covering over the back, loin, and upper ribs. In handling, the shoulders, backbone, hips, and ribs are prominent. Older, more mature lambs have slightly more than a thin fat covering over the back, ribs, and loin. In handling, the bones of the shoulders, backbone, hips, and ribs are rather prominent. Good grade lambs may present evidences of slightly low quality. The bones and joints are usually moderately large, and the body is somewhat lacking in symmetry and smoothness.

(2) A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A lamb which has evidences of quality at least one-third grade superior to that specified as minimum for the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a lamb be graded Good which has a development of conformation inferior to the minimum for the upper one-third of the Utility grade. Also, a lamb which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper one-third of the Utility grade. Compensation of superior conformation for inferior quality is also limited to one-third grade of deficient quality.

(d) *Utility.* The Utility grade consists of those lambs whose characteristics are inferior to those specified as minimum for the Good grade.

[49 FR 43037, Oct. 26, 1984]

§ 53.134 Specifications for Official U.S. Standards for Grades of Slaughter Yearlings (Quality).

(a) *Prime.* (1) Slaughter yearlings having minimum conformation requirements for the Prime grade tend to be thickly muscled throughout, and are moderately wide and thick in relation to their length and height, and they are moderately wide over the back, loin, and rump. Shoulders and hips are usually moderately smooth. The twist is moderately deep and full, and the legs are moderately large and plump. There is a rather distinct fullness or plumpness evident over the crops, loins, and rump which contributes to a well-rounded appearance. There is a slightly thick fat covering over the back, ribs, loin, and rump. In handling, the backbone and ribs are hardly discernible. Prime grade slaughter yearlings exhibit evidences of rather high quality. The bones tend to be proportionately small, the joints tend to be smooth, and the body tends to be smooth and symmetrical.

(2) Regardless of the extent to which its conformation may exceed the minimum requirements for Prime, a yearling must have minimum Prime quality to be eligible for the Prime grade. However, a development of quality which is superior to that specified as minimum for the Prime grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Prime as indicated in the following example: A yearling which has evidences of quality equivalent to the midpoint of the Prime grade may have conformation equivalent to the midpoint of the Choice grade and remain eligible for Prime. However, in no instance may a yearling be graded

Prime which has a development of conformation inferior to that specified as minimum for the Choice grade.

(b) *Choice.* (1) Slaughter yearlings having minimum conformation requirements for the Choice grade are slightly thick muscled throughout, and they tend to be slightly wide and thick in relation to their length and height, and they tend to be slightly wide over the back, loin, and rump. The shoulders and hips are usually slightly smooth but may show a slight tendency toward prominence. The twist tends to be slightly deep and full, and the legs tend to be slightly thick and plump. They have a slightly thin fat covering over the back, ribs, loin, and rump. In handling, the backbone and ribs are readily discernible. Choice grade slaughter yearlings usually present a moderately refined appearance.

(2) A development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A yearling which has evidences of quality equivalent to the midpoint of the Choice grade may have conformation equivalent to the midpoint of the Good grade and remain eligible for Choice. However, in no instance may a yearling be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade. Also, a yearling which has a development of conformation at least one-third grade superior to that specified as minimum for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper one-third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.

(c) *Good.* (1) Slaughter yearlings having minimum conformation requirements for the Good grade are slightly thin muscled throughout, and are moderately narrow in relation to their length and height, and are slightly narrow over the back, loin, and rump. Hips and shoulders are moderately prominent. The twist is slightly shallow, and the legs are slightly small and thin. They have slightly more than a moderately thin fat covering over the back, loin, and upper ribs. In handling, the shoulders, backbone, hips, and ribs are rather prominent. Good grade yearlings may present evidences of slightly low quality. The body is somewhat lacking in symmetry and smoothness.

(2) A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A yearling which has evidences of quality at least one-third grade superior to that specified as minimum for the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a yearling be graded Good which has a development of conformation inferior to the minimum for the upper one-third of the Utility grade. Also, a yearling which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper one-third of the Utility grade. Compensation of superior conformation for inferior quality is also limited to one-third grade of deficient quality.

(d) *Utility.* The Utility grade includes those yearlings whose characteristics are inferior to those specified as minimum for the Good grade.

[49 FR 43038, Oct. 26, 1984]

§ 53.135 Specifications for Official U.S. Standards for Grades of Slaughter Sheep (Quality).

(a) *Choice.* (1) Slaughter sheep having minimum conformation requirements for the Choice grade are slightly thick muscled throughout, and they tend to be slightly wide and thick in relation to their length and height, and they tend to be slightly wide over the back, loin, and rump. The shoulders and hips are usually slightly smooth but may show a slight tendency toward prominence. The twist tends to be slightly deep and full, and the legs tend to be slightly thick and plump. They have a slightly thick fat covering over the back, ribs, loin, and rump. In handling, the backbone and ribs are slightly discernible. Choice grade slaughter sheep usually present a moderately refined appearance.

(2) A development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A sheep which has evidences of quality equivalent to the midpoint of the Choice grade may have conformation equivalent to the midpoint of the Good grade and remain eligible for Choice. However, in no instance may a sheep be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade. Also, a sheep which has conformation at least one-third grade superior to that specified as minimum for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper one-third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.

(b) *Good.* (1) Slaughter sheep having minimum conformation requirements for the Good grade are slightly thin muscled throughout, and are moderately narrow in relation to their length and height, and they are slightly narrow over the back, loin, and rump. Hips and shoulders are moderately prominent. The twist is slightly shallow, and the legs are slightly small and thin. They have a slightly thin fat covering over the back, ribs, and loin. In handling, the bones of the shoulders, backbone, hips, and ribs are slightly prominent. Good grade sheep may present evidences of slightly low quality. The body is somewhat lacking in symmetry and smoothness.

(2) A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A sheep which has evidences of quality equivalent to the midpoint of the Good grade may have conformation equivalent to the midpoint of the Utility grade and remain eligible for Good. However, in no instance may a sheep be graded Good which has a development of conformation inferior to that specified as minimum for the Utility grade. Also, a sheep which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper one-third of the Utility grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.

(c) *Utility.* (1) Slaughter sheep having minimum conformation requiremelts for the Utility grade are thinly muscled throughout, and are very angular and very narrow in relation to their length and height, and they are tery thin fleshed, very narrow over the back, loin, and rump, and very shallow in the twist. The hips are very prominent, and the shoulders are usually open, rough, and prominent. The legs are very small and thin and present a slightly concave appearance. Utility grade slaughter sheep show no visible evidences of fat covering. In handling, the bones of the shoulders, backbone, hips, and ribs are so thinly covered that they are very prominent. Utility grade slaughter sheep are of rather low quality. The bones and joints are proportionately large, and the bmdy is very rough and unsymmetrical.

(2) A development of quality which is superior to that specified as minimum for the Utility grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Utility as indicated in the following example: A sheep which has evidences of quality at least one-third grade superior to that specified as minimum for the Utility grade may have conformation equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility. However, in no instance may a sheep be graded Utility which has a develop-

ment of conformation inferior to the minimum for the upper one-third of the Cull grade. Also, a sheep which has conformation at least one-third grade superior to that specified as minimum for the Utility grade may qualify for Utility with a development of quality equivalent to the lower limit of the upper one-third of the Cull grade. Compensation of superior conformation for inferior quality is also limited to one-third grade of deficient quality.

(d) *Cull.* (1) The Cull grade includes those slaughter sheep whose characteristics are inferior to those specified as minimum for the Utility grade.

[49 FR 43039, Oct. 26, 1984]

§ 53.136 Specifications for official U.S. standards for grades of slaughter lambs, yearlings, and sheep (yield).

(a) *Yield Grade 1.* (1) Yield Grade 1 slaughter lambs, yearlings, and sheep produce carcasses which have very high yields of boneless retail cuts. Ovines with characteristics qualifying them for the lower limits of Yield Grade 1 (near the borderline between Yield Grade 1 and Yield Grade 2) will differ considerably because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled ovines typical of the minimum of this grade have a high proportion of lean to bone. They are moderately wide and usually the width through the shoulders and legs is greater than through the back. The top is well-rounded with no evidence of flatness and the back and loin are moderately full and plump. The legs are moderately large and plump and the width through the middle part of the legs is greater than through the back. The shoulders and hips are slightly prominent. These ovines have only a thin covering of external fat over the back and loin and a slightly thick covering of fat over the rump and down over the ribs. They are shallow through the flanks and the brisket and cod or udder have little evidence of fullness. In handling, the backbone, ribs, and ends of bones at the loin edge are moderately prominent. A carcass produced from slaughter ovines of this description might have 0.1 inch of fat over the ribeye and a low Prime leg conformation grade.

(b) *Yield Grade 2.* (1) Yield Grade 2 slaughter lambs, yearlings, and sheep produce carcasses with high yields of boneless retail cuts. Ovines with characteristics qualifying them for the lower limits of Yield Grade 2 (near the borderline between Yield Grade 2 and Yield Grade 3) will differ considerably because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled ovines typical of the minimum of this grade have a high proportion of lean to bone. They are wide through the back and loin and have slightly greater width through the shoulders and legs than through the back. The top is well-rounded with little evidence of flatness and the back and loin are full and plump. The legs are large and plump and the width through the middle part of the legs is slightly greater than through the back. The shoulders and hips are slightly smooth. These ovines have a slightly thin layer of external fat over the back and loin and a thick covering of fat over the rump and down over the ribs. They are slightly shallow through the flanks and the brisket and cod or udder are slightly full. In handling, the backbone, ribs and ends of bones at the loin edge are readily discernible. A carcass produced from slaughter ovines of this description might have 0.2 inch of fat over the ribeye and an average Prime Leg conformation grade.

(3) Thinly muscled ovines typical of the minimum of this grade have a relatively low proportion of lean to bone. They tend to be slightly narrow over the back, loin, and rump. The legs tend to be slightly small and thin and the width over the back is slightly greater than through the legs. The shoulders and hips tend to be moderately prominent. These ovines have a thin covering of external fat over the back and loin and a moderately thick covering of fat over the rump and down over the ribs. They tend to be slightly shallow through the flanks. The brisket and cod or udder have little evidence of fullness. In handling,

the backbone, ribs, and ends of the bones at the loin edge are moderately prominent. A carcass produced from slaughter ovines of this description might have 0.15 inch of fat over the ribeye and high Good leg conformation grade.

(c) *Yield Grade 3.* (1) Yield Grade 3 slaughter lambs, yearlings, and sheep produce carcasses with intermediate yields of boneless retail cuts. Ovines with characteristics qualifying them for the lower limits of Yield Grade 3 (near the borderline between Yield Grade 3 and Yield Grade 4) will differ considerably because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled ovines typical of the minimum of this grade have a high proportion of lean to bone. They are very wide through the back and loin and are uniform in width from front to rear. The top is nearly flat with only a slight tendency toward roundness. The back and loin are very full and plump. The legs are very large and plump. The shoulders and hips are moderately smooth. These ovines have a slightly thick covering of fat over the back and loin and a very thick covering of fat over the rump and down over the ribs. The flanks are slightly deep and full and the brisket and cod or udder are moderately full. In handling, the backbone, ribs, and ends of bones at the loin edge are moderately discernible. A carcass produced from slaughter ovines of this description might have 0.3 inch of fat over the ribeye and a high Prime leg conformation grade.

(3) Thinly muscled ovines typical of the minimum of this grade have a relatively low proportion of lean to bone. They tend to be slightly wide over the back, loin and rump. The legs tend to be slightly thick and plump. The width over the back is moderately greater than through the legs. The shoulders and hips are slightly prominent. These ovines have a slightly thin covering of external fat over the back and loin and a thick covering of fat over the rump and down over the ribs. The flanks tend to be slightly deep and full. The brisket and cod or udder are slightly full. In handling, the backbone, ribs, and ends of bones at the loin edge tend to be moderately discernible. A carcass produced from slaughter ovines of this description might have 0.25 inch of fat over the ribeye and a low Choice leg conformation grade.

(d) *Yield Grade 4.* (1) Yield Grade 4 slaughter lambs, yearlings, and sheep produce carcasses with moderately low yields of boneless retail cuts. Ovines with characteristics qualifying them for the lower limits of Yield Grade 4 (near the borderline between Yield Grade 4 and Yield Grade 5) will differ considerably because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled ovines typical of the minimum of this grade have a high proportion of lean to bone. They are extremely wide through the back and loin and are slightly wider over the top than through the shoulders and legs. The back and loin are extremely full and plump. The legs are extremely large and plump. The shoulders and hips are smooth. These ovines have a moderately thick covering of fat over the back and loin, and an extremely thick covering of fat over the rump and down over the ribs. The flanks are moderately deep and full and the brisket and cod or udder are full. In handling, the backbone, ribs, and ends of the bones at the loin edge are slightly discernible. A carcass produced from slaughter ovines of this description might have 0.4 inch of fat over the ribeye and a high Prime leg conformation grade.

(3) Thinly muscled ovines typical of the minimum of this grade have a relatively low proportion of lean to bone. They tend to be moderately wide over the back, loin, and rump. The legs tend to be moderately thick and plump. They are wider over the back than through the legs. The shoulders and hips are slightly smooth. These ovines have a slightly thick covering of external fat over the back and loin and a very thick covering of fat over the rump and down over the ribs. The flanks are slightly deep and full. The brisket and cod or udder are moderately full. In handling, the backbone, ribs, and ends of bones at the loin edge

tend to be slightly discernible. A carcass produced from slaughter ovines of this description might have 0.35 inch of fat over the ribeye and an average Choice leg conformation grade.

(e) *Yield Grade 5.* Yield Grade 5 slaughter lambs, yearlings, and sheep produce carcasses with low yields of boneless retail cuts. Ovines of this grade consist of those not meeting the minimum requirements of Yield Grade 4 because of either more fat or a lower leg conformation grade or a combination of these characteristics.

[42 FR 53902, Oct. 4, 1977. Redesignated at 49 FR 43036, Oct. 26, 1984]

SWINE

§ 53.150 Swine.

The official standards for swine developed by the U.S. Department of Agriculture provide for segregation first according to intended use—slaughter or feeder—then as to class, as determined by sex condition, and then as to grade, which is determined by the apparent relative excellence and desirability of the animal for a particular use. Differentiation between slaughter and feeder swine is based solely on their intended use rather than on specific identifiable characteristics of the swine. Slaughter swine are those which are intended for slaughter immediately or in the near future. Feeder swine are those which are intended for slaughter after a period of feeding.

§ 53.151 Slaughter and feeder swine classes.

There are five classes of slaughter and feeder swine. Definitions of the respective classes are as follows:

(a) *Barrow.* A barrow is a male swine castrated when young and before development of the secondary physical characteristics of a boar.

(b) *Gilt.* A gilt is a young female swine that has not produced young and has not reached an advanced stage of pregnancy.

(c) *Sow.* A sow is a mature female swine that usually shows evidence of having reproduced or having reached an advanced stage of pregnancy.

(d) *Boar.* A boar is an uncastrated male swine.

(e) *Stag.* A stag is a male swine castrated after development or beginning of development of the secondary physical characteristics of a boar. Typical stags are somewhat coarse and lack balance—the head and shoulders are more fully developed than the hindquarter parts, bones and joints are large, the skin is thick and rough, and the hair is coarse.

§ 53.152 Application of standards for grades of slaughter barrows and gilts.

(a) Grades of slaughter barrows and gilts are intended to be directly related to the grades of the carcasses they produce. To accomplish this, the slaughter barrow and gilt grades are predicated on the same two general considerations that provide the basis for the grades of barrow and gilt carcasses: quality—which includes characteristics of the lean and firmness of fat, and characteristics related to the combined carcass yields of the four lean cuts (ham, loin, picnic shoulder, and Boston butt).

(b) With respect to quality, two general levels are considered, one for barrows and gilts with characteristics which indicate that the carcass will have acceptable belly thickness and lean quality, and acceptable firmness of fat, and one for barrows and gilts with characteristics which indicate that the carcass will have unacceptable belly thickness, lean quality, and/or firmness of fat. The bellies of carcasses with acceptable quality are at least slightly thick overall and are not less than 0.6 inches thick at any point. Since carcass indices of lean quality are not directly evident in slaughter barrows and gilts, some other factors in which differences can be noted must be used to evaluate quality. Therefore, the amount and distribution of external finish and indications of firmness of fat and muscle are used as quality-indicating factors.

(c) Slaughter barrows and gilts with characteristics which indicate they will not have an acceptable belly thickness or quality of lean are graded U.S. Utility. Also graded U.S. Utility are slaughter barrows and gilts with indications that they will produce carcasses which will have oily or less than slightly firm fat.

(d) Four grades—U.S. No. 1, U.S. No. 2, U.S. No. 3, and U.S. No. 4 are provided for slaughter barrows and gilts with characteristics which indicate that their carcasses will have an acceptable level of lean quality and acceptable firmness of fat. These grades are based entirely on the combination of factors that predict the expected combined carcass yields of the four lean cuts—hams, loins, picnic shoulders, and Boston butts.

(e) The official grade for slaughter barrows and gilts having acceptable quality is determined by considering two characteristics: (1) The estimated backfat thickness over the last rib, and (2) the muscling score. Values for these factors are then used in a mathematical equation to arrive at the final grade.

(f) In evaluating barrows and gilts for fatness and muscling, variations in the degree of fatness have a greater effect on the yield of the lean cuts than do variations in muscling. The fatness and muscling evaluations can best be made simultaneously. This is accomplished by considering the development of the various parts based on an understanding of how the appearance of each part is affected by variations in muscling and fatness. While the muscling of most barrows and gilts develops uniformly, the fat is normally deposited at a considerably faster rate on some parts than on others. Therefore, muscling can be appraised best by giving primary consideration to the parts least affected by fatness, such as the hams. Differences in thickness and fullness of the hams—with appropriate adjustments for the effects of variations in fatness—are the best indicators of the overall degree of muscling. Conversely, the overall fatness can be determined best by observing those parts on which fat is deposited at a faster than average rate. These include backfat, the edge of the loin, the rear flank, the shoulder, the jowl, and the belly. As barrows and gilts increased in fatness, these parts appear progressively fuller, thicker, and more distended in relation to the thickness and fullness of the other parts, especially the thickness through the hams.

(g) When grading live animals it is usually necessary to consider indications of fatness on all parts of the animal in order to most accurately estimate the backfat thickness over the last rib. As slaughter barrows and gilts increase in fatness, they also become deeper bodied because of deposits of fat in the flanks and along the underline. The fullness of the flanks, best observed when the animal walks, and the thickness and fullness of the jowl are other indications of fatness.

(h)(1) In slaughter barrow and gilt grading three degrees of muscling—thick (superior), average, and thin (inferior)—are considered. In previous standards (33 FR 9249) six degrees of muscling (very thick, thick, moderately thick, slightly thin, thin, and very thin) were recognized. The current thick (superior) muscling includes only the previous very thick degree of muscling. Current average muscling includes the previous thick and moderately thick degrees, and the current thin (inferior) muscling includes the previous slightly thin, thin, and very thin degrees.

(2) Slaughter barrows and gilts with thick muscling and a low degree of fatness will be much thicker through the hams than through the loins and the loins will appear full and well-rounded. Thick muscled animals with a high degree of fatness will be slightly thicker through the hams than through the loins, will be nearly flat over the back, and will have a slight break into the sides. Animals with average muscling and a low degree of fatness will be thicker through the hams than through the loins, and the loins, and the loins will appear slightly full and rounded. Animals with average muscling and a high degree of fatness will have about equal thickness through the hams and loins. Animals with thin muscling and a low degree of fatness usually are slightly thicker through the shoulders and the center of the hams than through the back and the loins will appear sloping and flat. Thin muscled animals with a high degree of fatness will be wider through the loins than through the hams and will have a distinct break from over the loins into the sides.

(3) Slaughter barrows and gilts with average muscling will be graded according to their estimated backfat thickness over the last rib. Animals with thin muscling will be graded one grade lower than indicated by the estimated backfat thickness over the last rib. Animals with thick muscling will be graded one grade higher than indicated by their estimated backfat thickness over the last rib, except that animals with an estimated 1.75 inches or greater last rib backfat thickness must remain in the U.S. No. 4 grade.

(i) The official grade standards contain a mathematical equation for calculating the grade and a table for determining a preliminary grade based on the estimated backfat thickness over the last rib. Also, the individual grade specifications describe the various combinations of muscling and last rib backfat thickness which qualify for that grade.

[49 FR 48674, Dec. 14, 1984]

§ 53.153 Specifications for official United States standards for grades of slaughter barrows and gilts.

(a) The grade of a slaughter barrow or gilt with indications of acceptable quality is determined on the basis of the following equation: Grade = (4.0 X last rib backfat thickness, inches) − (1.0 X muscling score). To apply this equation, muscling should be scored as follows: thin (inferior) = 1, average = 2, and thick (superior) = 3. Animals with thin muscling cannot grade U.S. No. 1. The grade may also be determined by calculating a preliminary grade according to the schedule shown in Table 1 and adjusting up or down one grade for superior or inferior muscling, respectively.

TABLE 1.—PRELIMINARY GRADE BASED ON BACKFAT THICKNESS OVER THE LAST RIB

Preliminary grade	Backfat thickness range
U.S. No. 1	Less than 1.00 inch.
U.S. No. 2	1.00 to 1.24 inches.
U.S. No. 3	1.25 to 1.49 inches.
U.S. No. 4	1.50 inches and over.[1]

[1] Animals with an estimated last rib backfat thickness of 1.75 inches or over cannot be graded U.S. 3, even with thick muscling.

(b) The following descriptions provide a guide to the characteristics of slaughter barrows and gilts in each grade.

(1) *U.S. No. 1.* (i) Barrows and gilts in this grade are expected to have an acceptable quality of lean and belly thickness and a high expected yield (60.4 percent and over) of four lean cuts. U.S. No. 1 barrows and gilts must have less than average estimated backfat thickness over the last rib with average muscling, or average estimated backfat over the last rib coupled with thick muscling.

(ii) Barrows and gilts with average muscling may be graded U.S. No. 1 if their estimated backfat thickness over the last rib is less than 1.00 inch. Animals with thick muscling may be graded U.S. No. 1 if their estimated backfat thickness over the last rib is less than 1.25 inches. Barrows and gilts with thin muscling may not be graded U.S. No. 1.

(2) *U.S. No. 2.* (i) Barrows and gilts in this grade are expected to have an acceptable quality of lean and belly thickness and an average expected yield (57.4 to 60.3 percent) of four lean cuts. Animals with average estimated backfat thickness over the last rib and average muscling, less than average estimated backfat thickness over the last rib and thin muscling, or greater than average estimated backfat thickness over the last rib and thick muscling will qualify for this grade.

(ii) Barrows and gilts with average muscling will be graded U.S. No. 2 if their estimated backfat thickness over the last rib is 1.00 to 1.24 inches. Barrows and gilts with thick muscling will be graded U.S. No. 2 if their estimated backfat thickness over the last rib is 1.25 to 1.49 inches. Barrows and gilts with thin muscling must have less than 1.00 inch of estimated backfat over the last rib to be graded U.S. No. 2.

(3) *U.S. No. 3.* (i) Barrows and gilts in this grade are expected to have an acceptable quality of lean and belly thickness and a slightly low expected yield (54.4 to 57.3 percent) of four lean cuts. Barrows and gilts with average muscling and more than average estimated backfat thickness over last rib, thin muscling and average estimated

backfat thickness over the last rib, or thick muscling and much greater than average estimated backfat thickness over the last rib will qualify for this grade.

(ii) Barrows and gilts with average muscling will be graded U.S. No. 3 if their estimated backfat thickness over the last rib is 1.25 to 1.49 inches. Barrows and gilts with thick muscling will be graded U.S. No. 3 if their estimated backfat thickness over the last rib is 1.50 to 1.74 inches. Barrows and gilts with 1.75 inches or more of estimated backfat thickness over the last rib cannot grade U.S. No. 3. Barrows and gilts with thin muscling will be graded U.S. No. 3 if their estimated backfat thickness over the last rib is 1.00 to 1.24 inches.

(4) *U.S. No. 4.* (i) Barrows and gilts in this grade are expected to have an acceptable quality of lean and belly thickness and a low expected yield (less than 54.4 percent) of four lean cuts. Barrows and gilts in the U.S. No. 4 grade always have more than average estimated backfat over the last rib and thick, average, or thin muscling, depending on the degree to which the estimated backfat thickness over the last rib exceeds the average.

(ii) Barrows and gilts with average muscling will be graded U.S. No. 4 if their estimated backfat thickness over the last rib is 1.50 inches or greater. Barrows and gilts with thick muscling will be graded U.S. No. 4 with estimated backfat thickness over the last rib of 1.75 inches or greater, and those with thin muscling will be graded U.S. No. 4 with 1.25 inches or greater estimated backfat over the last rib.

(5) *U.S. Utility.* All barrows and gilts with probable unacceptable quality of lean or belly thickness will be graded U.S. Utility, regardless of their muscling or estimated backfat thickness over the last rib. Also, all barrows and gilts which may produce soft and/or oily fat will be graded U.S. Utility.

[49 FR 48675, Dec. 14, 1984]

§ 53.154 Application of standards for grades of slaughter sows.

(a) The standards for grades of slaughter sows are based on (1) differences in yields of lean cuts and of fat cuts and (2) differences in quality of cuts. These characteristics vary rather consistently from one grade to another. The U.S. No. 1 grade has about the minimum degree of finish necessary to produce pork carcasses with quality characteristics indicative of acceptable palatability in the cuts. The U.S. No. 2 grade is overfinished and the U.S. No. 3 grade is decidedly overfinished in relation to the minimum finish associated with acceptable palatability. Yields of lean cuts are lower and yields of fat cuts are higher, in proportion to the degree of overfinish, in these grades than in the U.S. No. 1 grade. Medium grade sows are underfinished and produce carcasses which are soft and have indications of insufficient quality for acceptably palatable cuts. Cull grade sows are decidedly underfinished and the pork is soft and watery with little or no marbling and low palatability.

(b) The grades for slaughter sows are closely related to the grades for sow carcasses, and the desired objective in grading sows is the accurate prediction of the carcass grade that will be produced. Degree of finish is an important factor in grading, and the expected average back fat thickness of carcasses produced by each grade of slaughter sows forms a part of the standards. The results of study of carcass measurement and cutting data show that carcasses equal in fat thickness are approximately equal in yields of cuts regardless of differences in weight. Therefore, the expected back fat thickness of carcasses from each grade of slaughter sows is the same at all weights. The following table outlines the carcass fat thickness guides for each grade of slaughter sows.

Grade	Average back fat thickness
U. S. No. 1	1.5 to 1.9 inches.
U. S. No. 2	1.9 to 2.3 inches.
U. S. No. 3	2.3 or more inches.
Medium	1.1 to 1.5 inches.
Cull	Less than 1.1 inches.

(c) The standards for grades also include descriptive specifications of the characteristics of slaughter sows with the minimum degree of finish for each grade. Application of the standards requires an accurate appraisal of these live animal characteristics indicative of carcass finish and grade. No attempt is made to describe in the standards the many combinations of characteristics which may qualify an animal for a particular grade, and sound judgment is required to appropriately analyze varying combinations.

(d) Slaughter sows that have produced several litters of pigs may show considerable roughness along the underline due to extensive development of mammary tissue. In addition, sows from which pigs were weaned only a short time prior to grading may show evidence that the mammary tissue is still active in milk production and not completely dry. Since smoothness and dryness of the underline have little effect on the basic grade determining factors, no provision is made in the standards for altering the grade of slaughter sows due to differences in these characteristics. It is recognized that the value determining factors to be considered in marketing sows include dryness and smoothness as well as such other factors as weight, degree of finish, quality, and fill. However, consideration of all such factors in determining grade would require a complicated system with a great number of grades in order to make each grade sufficiently restrictive to be practical and useful. Therefore, the grades outlined in these standards identify differences in slaughter sows with respect to yields of cuts and quality. They were designed as practical aids in evaluating slaughter sows when used in conjunction with other factors such as weight, fill, smoothness, and dryness.

§ 53.155 Specifications for official U.S. standards for grades of slaughter sows.

(a) *U.S. No. 1 grade.* U.S. No. 1 grade slaughter sows have an intermediate degree of finish near the minimum required to produce pork cuts of acceptable palatability. Sows with the minimum finish for U.S. No. 1 grade are moderately long and slightly wide in relation to weight. Width of body is rather uniform from top to bottom and from front to rear. The back, from side to side, is moderately full and thick with a well-rounded appearance and blends smoothly into the sides. The sides are moderately long and slightly thick; the flanks are slightly thick and full. Depth at the rear flank may be slightly less than depth at the fore flank. Hams are usually moderately thick and full with a slightly thick covering of fat. Jowls are usually moderately thick and full but appear trim. Sows in this grade produce U.S. No. 1 grade carcasses.

(b) *U.S. No. 2 grade.* U.S. No. 2 grade slaughter sows have a moderately high degree of finish that is somewhat greater than the minimum required to produce pork cuts of acceptable palatability. Sows with the minimum finish for the U.S. No. 2 grade are slightly short and moderately wide in relation to weight. Width of body is often greater over the top than at the underline and tends to be slightly greater through the shoulders than through the hams. The back, from side to side, is full and thick and appears slightly flat with a noticeable break into the sides. The sides are slightly short and moderately thick; the flanks are moderately thick and full. Depth at the rear flank is nearly equal to depth at the fore flank. Hams are usually thick and full with a moderately thick covering of fat, especially over the lower part. Jowls are usually full and thick, and the neck appears rather short. Sows in this grade produce U.S. No. 2 grade carcasses.

(c) *U.S. No. 3 grade.* U.S. No. 3 grade slaughter sows have a high degree of finish that is considerably greater than the minimum required to produce pork cuts of acceptable palatability. Sows with the minimum finish for U.S. No. 3 grade are short and wide in relation to weight. Width of body is often somewhat greater over the top than at the underline and tends to be greater through the shoulders than through the hams. The back, from side to side, is very full and thick and appears nearly flat with a pronounced break into the sides. The sides are short and thick; the flanks are thick and full. Depth at the rear flank is equal to depth at the fore flank. Hams are usually very thick and full with a thick covering of fat especially over the lower part. Jowls are usually very full and thick, and the neck appears short. Sows of this grade produce U.S. No. 3 grade carcasses.

(d) *Medium grade.* Medium grade slaughter sows have a low degree of finish which is somewhat less than the minimum required to produce pork cuts of acceptable palatability. Sows with the minimum finish for Medium grade are long and moderately narrow in relation to weight. Width of body is often less over the top than at the underline and tends to be slightly less through the shoulders than through the hams. The back, from side to side, is moderately thin and appears rather peaked at the center with a distinct slope toward the sides. The hips are moderately prominent. The sides are long and moderately thin; the flanks are thin. Depth at the rear flank is less than depth at the fore flank. Hams are usually moderately thin and flat and taper toward the shank. Jowls are usually slightly thin and flat, and the neck appears rather long. Sows in this grade produce Medium grade carcasses.

(e) *Cull grade.* Cull grade slaughter sows have a very low degree of finish which is considerably lower than that required to produce pork cuts of acceptable palatability. Sows with the finish typical of the Cull grade are long and narrow in relation to weight. Width of body is often somewhat less over the top than at the underline and tends to be less through the shoulders than through the hams. The back, from side to side, is thin and lacks fullness and is peaked at the center with a decided slope toward the sides. The hips are prominent. The sides are very long and thin; the flanks are very thin. Depth at the rear flank is considerably less than depth at the fore flank. Hams are usually thin and flat with a definite taper toward the shank. Jowls are usually thin and flat, and the neck appears long. Sows in this grade produce Cull grade carcasses.

§ 53.158 Application of standards for grades of feeder pigs.

(a) The grade of a feeder pig is determined by evaluating two general value-determining characteristics—its logical slaughter potential and its thriftiness.

(b) The logical slaughter potential of a thrifty feeder pig is its expected slaughter grade at a market weight of 220 pounds after a normal feeding period. In these feeder pig standards, logical slaughter potential is determined by a composite appraisal of the development of the muscular system and the skeletal system. Both of these factors have an important effect on the development of lean and fat as the animal grows and fattens, and therefore, on the expected slaughter and carcass grade.

(c) Thriftiness in a feeder pig is its apparent ability to gain weight rapidly and efficiently. Size for age, health, and other general indications of thriftiness are considered in appraising the thriftiness of feeder pigs.

(d) The standards provide for six grades of feeder pigs—U.S. No. 1, U.S. No. 2, U.S. No. 3, U.S. No. 4, U.S. Utility, and U.S. Cull. Except for the U.S. Cull grade, these names correspond to the five grade names for slaughter swine and pork carcasses. The U.S. No. 1, U.S. No. 2, U.S. No. 3, and U.S. No. 4 grades include all pigs which are thrifty. Differentiation between the U.S. No. 1, U.S. No. 2, U.S. No. 3, and U.S. No. 4 grades is based entirely on differences in logical slaughter potential. Feeder pigs in the U.S. No. 1 grade have sufficient muscling and frame to reach a market weight of 220 pounds with a minimum degree of finish. Feeder pigs in the U.S. No. 2, U.S. No. 3, and U.S. No. 4 grades usually have progressively less muscling and less frame and are expected to have progressively more finish when marketed at 220 pounds. The U.S. Utility and U.S. Cull grades include only pigs which lack thriftiness. Differentiation between the U.S. Utility and U.S. Cull grades is based entirely on differences in thriftiness.

(e) Most feeder pigs are marketed when relatively young and before reaching a weight of 125 pounds. At this age, sex condition exerts little influence on the basic factors determining the feeder grade. Therefore, these standards are equally applicable for grading barrow, gilt, and boar pigs, although it is recognized that sex condition may influence the market price in some instances. It is assumed that boar pigs will be castrated prior to developing the secondary physical characteristics of a boar. Sows, stags, and mature boars are seldom used as feeder animals, and these standards do not apply to those classes.

(f) Only one combination of muscling and skeletal characteristics is described in the standards for the U.S. No. 1, U.S. No. 2, U.S. No. 3, and U.S. No. 4 grades. However, feeder pigs qualifying for the U.S. No. 1, U.S. No. 2, U.S. No. 3 or U.S. No. 4 grades may vary with respect to the relative development of the individual grade factors. In fact, some will qualify for a particular grade although they have some characteristics more nearly typical of another grade, except that feeder pigs in the U.S. No. 1 grade must have at least moderately thick muscling. Feeder pigs with other characteristics of the U.S. No. 1 grade, but with less than moderately thick muscling would be in the U.S. No. 2 grade. Since no attempt is made to describe the numerous combinations of characteristics that may qualify a feeder pig for a specific grade, making appropriate compensations for varying combinations of characteristics requires the use of sound judgment.

§ 53.159 Specifications for official U.S. standards for grades of feeder pigs.

(a) *U.S. No. 1.* Feeder pigs in this grade near the borderline of the U.S. No. 2 grade are long and have thick muscling throughout. Thickness of muscling is particularly evident in thick and full hams and shoulders. The hams and shoulders are thicker than the back, which is well rounded. They usually present a well-balanced appearance. In no case may a feeder pig be graded U.S. No. 1 with less than moderately thick muscling. Feeder pigs in this grade are expected to produce U.S. No. 1 grade carcasses when slaughtered at 220 pounds.

(b) *U.S. No. 2.* Feeder pigs in this grade near the borderline of the U.S. No. 3 grade are moderately long and have moderately thick muscling throughout. Thickness of muscling is particularly evident in moderately thick and full hams and shoulders. The back usually appears slightly full and well-rounded. They usually present a well-balanced appearance. This grade also includes feeder pigs which otherwise qualify for the U.S. No. 1 grade but have less than moderately thick muscling. Feeder pigs in this grade are expected to produce U.S. No. 8 grade carcasses when slaughtered at 220 pounds.

(c) *U.S. No. 3.* Feeder pigs in this grade near the borderline of the U.S. No. 4 grade are slightly short and have slightly thin muscling throughout. The hams and shoulders are slightly thin and flat and the back usually appears moderately full and thick. Feeder pigs in this grade are expected to produce U.S. No. 3 grade carcasses when slaughtered at 220 pounds.

(d) *U.S. No. 4.* Feeder pigs typical of the U.S. No. 4 grade are short and have thin muscling throughout. The hams are thin and rather flat, particularly in the lower parts toward the shanks. The back usually appears slightly flat and the width at the topline usually is greater than at the underline. Feeder pigs in this grade are expected to produce U.S. No. 4 grade carcasses when slaughtered at 220 pounds.

(e) *U.S. Utility.* Feeder pigs typical of this grade are small for their age and appear unthrifty. They often have a rough, unkempt appearance indicating the effects of disease or poor care. The hams and shoulders usually are thin and flat and taper toward the shanks. The back is thin and lacks fullness. Pigs in this grade near the borderline of the U.S. No. 1, U.S. No. 2, U.S. No. 3, and U.S. No. 4 grades are slightly small for their age and appear slightly unthrifty. It is recognized that U.S. Utility grade feeder pigs will produce U.S. No. 1, U.S. No. 2, U.S. No. 3, or U.S. No. 4 grade carcasses when slaughtered at 220 pounds provided their unthrifty condition is corrected. U.S. Utility grade feeder pigs whose unthrifty condition is not corrected will produce U.S. Utility grade carcasses.

(f) *U.S. Cull.* Feeder pigs typical of this grade are very deficient in thriftiness because of poor care or disease. They can be expected to reach a normal market weight only after an extremely long and costly feeding period, if at all.

CATTLE

§ 53.201 Cattle.

The official standards for live cattle developed by the United States Department of Agriculture provide for segregation first according to use—slaughter and feeder—then as to class, which is determined by sex condition, and then as to grade, which is determined by the apparent relative excellence and desirability of the animal for its particular use. Differentiation between slaughter and feeder cattle is based solely on their intended use rather than on specific identifiable characteristics of the cattle. Slaughter cattle are those which are intended for slaughter immediately or in the very near future. Feeder cattle are those which are intended for slaughter after a period of feeding. However, under some economic conditions specific kinds of cattle may be considered as feeders whereas under other economic conditions they might be considered as slaughter cattle.

§ 53.202 Classes of slaughter and feeder cattle.

The classes of slaughter and feeder cattle are steers, bullocks, bulls, heifers, and cows. Definitions of the respective classes are as follows:

(a) *Steer.* A steer is a male bovine castrated when young and which has not begun to develop the secondary physical characteristics of a bull.

(b) *Bullock.* A bullock is a young (under approximately 24 months of age) male bovine (castrated or uncastrated) that has developed or begun to develop the secondary physical characteristics of a bull.

(c) *Bull.* A bull is a mature (approximately 24 months of age or older) uncastrated, male bovine. However, for the purpose of these standards, any mature, castrated, male bovine which has developed or begun to develop the secondary physical characteristics of an uncastrated male also will be considered a bull.

(d) *Cow.* A cow is a female bovine that has developed through reproduction or with age, the relatively prominent hips, large middle, and other physical characteristics typical of mature females.

(e) *Heifer.* A heifer is an immature female bovine that has not developed the physical characteristics typical of cows.

§ 53.203 Application of standards for grades of slaughter cattle.

(a) *General.* Grades of slaughter cattle are intended to be directly related to the grades of the carcasses they produce. To accomplish this, these slaughter cattle grade standards are based on factors which are related to the grades of beef carcasses. The quality and yield grade standards are contained in separate sections of the standards. The quality grade standards are further divided into two sections applicable to: (1) Steers, heifers, and cows and (2) bullocks. Eight quality designations—Prime, Choice, Good, Standard, Commercial, Utility, Cutter, and Canner—are applicable to steers and heifers. Except for Prime, the same designations also apply to cows. The quality designations for bullocks are Prime, Choice, Good, Standard, and Utility. There are five yield grades, which are applicable to all classes of slaughter cattle and are designated by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability. The grades of slaughter cattle shall be a combination of both their quality and yield grades, except that slaughter bulls are yield graded only.

(b) *Quality Grades.* (1) Slaughter cattle quality grades are based on an evaluation of factors related to the palatability of the lean, herein referred to as "quality." Quality in slaughter cattle is evaluated primarily by the amount and distribution of finish, the firmness of muscling, and the physical characteristics of the animal associated with maturity. Progressive changes in maturity past 30 months of age and in the amount and distribution of finish and firmness of muscling have opposite effects on quality. Therefore, for cattle over 30 months of age in each grade, the standards require a progressively greater development of the other quality-indicating factors. In cattle under about 30 months of age, a progressively greater development of the other quality-indicating characteristics is not required.

(2) Since carcass indices of quality are not directly evident in slaughter cattle, some other factors in which differences can be noted must be used to evaluate their quality. Therefore, the amount of external finish is included as a major grade factor herein, even though cattle with a specific degree of fatness may have widely varying degrees of quality. Identification of differences in quality among cattle with the same degree of fatness is based on distribution of finish and firmness of muscling. Descriptions of these factors are included in the specifications. For example, cattle which have more fullness of the brisket, flank, twist, and cod or udder and which have firmer muscling than that indicated by any particular degree of fatness are considered to have higher quality than indicated by the degree of fatness.

(3) The approximate maximum age limitation for the Prime, Choice, Good, and Standard grades of steers, heifers, and cows is 42 months. The Commercial grade for steers, heifers, and cows includes only cattle over approximately 42 months. There are no age limitations for the Utility, Cutter, and Canner grades of steers, heifers, and cows. The maximum age limitation for all grades of bullocks is approximately 24 months.[1]

(c) *Yield Grades.* (1) The yield grades for slaughter cattle are based on the same factors as used in the official yield grade standards for beef carcasses. Those factors and the change in each which is required to make a full yield grade change are as follows:

Factor	Effect of increase on yield grade[1]	Approximate change in each factor required to make a full yield grade change[2]
Thickness of fat over ribeye..	Decreases	$\frac{4}{10}$ in.
Percent of kidney, pelvic, and heart fat.	do	5%.
Carcass weight	do	260 lb.
Area of ribeye	Increases	3 in.^{2}

[1] The yield grades are denoted by numbers 1 through 5 with Yield Grade 1 representing the highest cutability or yield of closely trimmed retail cuts. Thus, an "increase" in cutability means a smaller yield grade number while a "decrease" in cutability means a larger yield grade number.

[2] This assumes no change in the other factors.

(2) When evaluating slaughter cattle for yield grade, each of these factors can be estimated and the yield grade determined therefrom by using the equation contained in the official standards for grades of carcass beef. However, a more practical method of appraising slaughter cattle for yield grade is to use only two factors normally considered in evaluating live cattle—muscling and fatness.

(3) In the latter approach to determining yield grade, evaluation of the thickness and fullness of muscling in relation to skeletal size largely accounts for the effects of two of the factors—area of ribeye and carcass weight. By the same token, an appraisal of the degree of external fatness largely accounts for the effects of thickness of fat over the ribeye and the percent of kidney, pelvic, and heart fat.

(4) These fatness and muscling evaluations can best be made simultaneously. This is accomplished by considering the development of the various parts based on an understanding of how each part is affected by variations in muscling and fatness. While muscling of most cattle develops uniformly, fat is normally deposited at a considerably faster rate on some parts than on others. Therefore, muscling can be appraised best by giving primary consideration to the parts least affected by fatness, such as the round and the forearm. Differences in thickness and fullness of these parts—with appropriate adjustments for the effects of variations in fatness—are the best indicators of the overall degree of muscling in live cattle.

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[1] Maximum maturity limits for bullock carcasses are the same as those described in the beef carcass grade standards for steers, heifers, and cows at about 30 months of age. However, bullocks develop carcass indicators of maturity at younger chronological ages than steers. Therefore, the approximate age at which bullocks develop carcass indicators of maximum maturity is shown herein as 24 months rather than 30 months.

(5) On the other hand, the overall fatness of an animal can be determined best by observing those parts on which fat is deposited at a faster-than-average rate. These include the back, loin, rump, flank, cod or udder, twist, and brisket. As cattle increase in fatness, these parts appear progressively fuller, thicker, and more distended in relation to the thickness and fullness of the other parts, particularly the round. In thinly muscled cattle with a low degree of finish, the width of the back usually will be greater than the width through the center of the round. The back on either side of the backbone also will be flat or slightly sunken. Conversely, in thickly muscled cattle with a similar degree of finish, the thickness through the rounds will be greater than through the back and the back will appear full and rounded. At an intermediate degree of fatness, cattle which are thickly muscled will be about the same width through the round and back and the back will appear only slightly rounded. Thinly muscled cattle with an intermediate degree of finish will be considerably wider through the back than through the round and will be nearly flat across the back. Very fat cattle will be wider through the back than through the round, but this difference will be greater in thinly muscled cattle than in those that are thickly muscled. Such cattle with thin muscling also will have a distinct break from the back into the sides, while those with thick muscling will be nearly flat on top but will have a less distinct break into the sides. As cattle increase in fatness, they also become deeper bodied because of large deposits of fat in the flanks and brisket and along the underline. Fullness of the twist and cod or udder and the bulge of the flanks, best observed when an animal walks, are other indications of fatness.

(6) In determining yield grade, variations in fatness are much more important than variations in muscling.

(d) *Other considerations.* (1) Other factors such as heredity and management also may affect the development of the grade-determining characteristics in slaughter cattle. Although these factors do not lend themselves to description in the standards, the use of factual information of this nature is justifiable in determining the grade of slaughter cattle.

(2) Slaughter cattle qualifying for any particular grade may vary with respect to the relative development of the individual grade factors. In fact, some will qualify for a particular grade although they have some characteristics more nearly typical of cattle of another grade. Because it is impractical to describe the nearly infinite number of recognizable combinations of characteristics, the quality and yield grade standards describe only cattle which have a relatively similar development of the various quality and yield grade determining factors and which are near the lower limits of these grades. The requirements are given for two maturity groups in the quality grade standards for steers, heifers, and cows—but for only one maturity group for bullocks. In the yield grade standards, cattle with two levels of muscling are described and specific examples in terms of carcass characteristics also are included.

§ 53.204 Specifications for official U.S. standards for grades of slaughter steers, heifers, and cows (Quality).

(a) *Prime.* (1) Slaughter steers and heifers 30 to 42 months of age possessing the minimum qualifications for Prime have a fat covering over the crops, back, ribs, loin, and rump that tends to be thick. The brisket, flanks, and cod or udder appear full and distended and the muscling is very firm. The fat covering tends to be smooth with only slight indications of patchiness. Steers and heifers under 30 months of age have a moderately thick but smooth covering of fat which extends over the back, ribs, loin, and rump. The brisket, flanks, and cod or udder show a marked fullness and the muscling is firm.

(2) Cattle qualifying for the minimum of the Prime grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Cattle with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described for

the Prime grade. Such cattle have less width of back and loin and are less uniform in width than normal for the Prime grade. The thick, full muscling gives the back and loin a well-rounded appearance with very little evidence of flatness. The thickness through the middle part of the rounds is greater than over the top and the thick muscling through the shoulders causes them to be slightly prominent. Although such cattle have a lower degree of fatness over the back and loin than described as typical, evidence of more fatness than described is noticeable in the brisket, flanks, twist, and cod or udder and the muscling is firmer than described. Conversely, cattle with lower cutability than normal for this grade are thinly muscled and have a higher degree of fatness than described for the Prime grade. The distribution of fat is not typical, for it is thicker over the crops, back, loin, and rump than described while the brisket, flanks, twist, and cod or udder indicate less fatness. Such cattle are wide and nearly flat over the back and loin and there is a sharp break from these parts into the sides. The width over the back is much greater than through the rounds and shoulders.

(3) Cows are not eligible for the Prime grade.

(b) *Choice.* (1) Slaughter steers, heifers, and cows 30 to 42 months of age possessing the minimum qualifications for Choice have a fat covering over the crops, back, loin, rump, and ribs that tends to be moderately thick. The brisket, flanks, and cod or udder show a marked fullness and the muscling is firm. Cattle under 30 months of age carry a slightly thick fat covering over the top. The brisket, flanks, and cod or udder appear moderately full and the muscling is moderately firm.

(2) Cattle qualifying for the minimum of the Choice grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Cattle with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described for the Choice grade. Such cattle are less uniform in width than normal for the Choice grade. The thick, full muscling over the top results in a rounded appearance with little evidence of flatness. The thickness through the middle part of the rounds is greater than over the top and the thick muscling through the shoulders causes them to be slightly prominent. Although such cattle have a lower degree of fatness over the back and loin than described as typical, evidence of more fatness than described is especially noticeable in the brisket, flanks, twist, and cod or udder and the muscling is firmer than described. Conversely, cattle with lower cutability than normal for this grade are thinly muscled and have a higher degree of fatness than described for the Choice grade. The distribution of fat is not typical, for it is thicker over the crops, back, loin, and rump than described but with evidence of less fatness in the brisket, flanks, twist, and cod or udder. The back and loin break sharply into the sides and the width over the back is much greater than through the rounds and shoulders.

(c) *Good.* (1) Slaughter steers, heifers, and cows 30 to 42 months of age possessing the minimum qualifications for Good have a fat covering that tends to be slightly thin with some fullness evident in the brisket, flanks, twist, and cod or udder and the muscling is firm. Cattle under 30 months of age have a thin fat covering which is largely restricted to the back and loin. The brisket, flanks, twist, and cod or udder are slightly full and the muscling is slightly firm.

(2) Cattle qualifying for the minimum of the Good grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Cattle with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described for the Good grade. Such cattle are less uniform in width than normal for the grade. The thick, full muscling through the back gives the back and loin a well-rounded appearance. The thickness through the middle part of the rounds is greater than over the top and the thick muscling through the shoulders causes them to be prominent. Evidence of more fatness than described is especially noticeable

in the brisket, flanks, twist, and cod or udder and the muscling is firmer than described. Conversely, cattle with lower cutability than normal for the grade are thinly muscled and have a higher degree of fatness than described for the Good grade. The distribution of fat is not typical, for it is thicker over the crops, back, loin, and rump than described while the brisket, flanks, twist, and cod or udder indicate less fatness. Such cattle are nearly flat over the back and loin and the width over the back is greater than through the rounds and shoulders.

(d) *Standard.* (1) Slaughter steers, heifers, and cows 30 to 42 months of age possessing the minimum qualifications for Standard have a fat covering primarily over the back, loin, and ribs which tends to be very thin. Cattle under 30 months of age have a very thin covering of fat which is largely restricted to the back, loin, and upper ribs.

(2) Cattle qualifying for the minimum of this grade vary relatively little in their degree of fatness. Therefore, the range in cutability among cattle that qualify for this grade is somewhat less than in the higher grades. Most of the cutability differences among cattle qualifying for this grade are due to a wide range in muscling. Cattle with higher cutability than normal for this grade may have a slightly lower degree of fatness than described but will have thick, well-rounded backs, wide loins, and prominent, thickly muscled shoulders. The width through the rounds will be greater than over the back. Cattle with lower cutability than normal for this grade may have slightly more finish than described and will be upstanding and narrow. The loin, rump, and rounds will appear slightly sunken.

(e) *Commercial.* (1) The Commercial grade is limited to steers, heifers, and cows over approximately 42 months of age. Slaughter cattle possessing the minimum qualifications for Commercial and which slightly exceed the minimum maturity for the Commercial grade have a slightly thick fat covering over the back, ribs, loin, and rump and the muscling is moderately firm. Very mature cattle usually have at least a moderately thick fat covering over the back, ribs, loin, and rump and considerable patchiness frequently is evident about the tail-head. The brisket, flanks, and cod or udder appear to be moderately full and the muscling is firm.

(2) Cattle qualifying for the minimum of the Commercial grade will differ considerably in cutability because of widely varying combinations of muscling and degree of fatness. Cattle with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described for the Commercial grade. The thick, full muscling over the top results in a rounded appearance with little evidence of flatness. The thickness through the middle part of the rounds is greater than over the top and the thick muscling through the shoulders causes them to be slightly prominent. Although such cattle have less thickness of fat over the back and loin than described as typical, evidence of more fatness than described is especially noticeable in the brisket, flanks, twist, and cod or udder and the muscling is firmer than described. Conversely, cattle with lower cutability than normal for this grade are thinly muscled and have a higher degree of fatness than described for the Commercial grade. The distribution of fat is not typical, being thicker over the crops, back, loin, and rump than described while the brisket, flanks, twist, and cod or udder indicate less fatness. The back and loin break sharply into the sides and the width over the back is much greater than through the rounds and shoulders.

(f) *Utility.* (1) The minimum degree of finish required for slaughter steers, heifers, and cows to qualify for the Utility grade varies throughout the range of maturity permitted in this grade from a very thin covering of fat for cattle under 30 months of age to a slightly thick fat covering, generally restricted to the back, loin, and rump for the very mature cattle in this grade. In such mature cattle, the crops are slightly thin and the brisket, flanks, and cod or udder indicate very slight fullness.

(2) Cattle qualifying for the minimum of the Utility grade vary somewhat in cutability especially among older animals. Those under 42 months of age are required to have very little fatness to qualify for the minimum of the grade; thus most of the variation in cutability of such cattle is due to differences in muscling. Cattle over 42 months of age will vary in their degree of fatness as well as muscling. Thus, cattle with thicker muscling than normal and less external fat than specified for this grade will have higher cutability than cattle with thinner muscling and more fatness.

(g) *Cutter.* (1) In slaughter cattle in the Cutter grade, the degree of finish ranges from practically none in cattle under 30 months of age to very mature cattle which have only a very thin covering of fat.

(2) The range in cutability among cattle that qualify for the minimum of this grade will be narrow because of very small variations in fatness and muscling.

(h) *Canner.* Canner grade cattle are those which are inferior to the minimum specified for the Cutter grade.

§ 53.205 Specifications for official U.S. standards for grades of slaughter bullocks (Quality).

(a) *Prime.* (1) Slaughter bullocks possessing the minimum qualifications for the Prime grade have a moderately thick but smooth covering of fat which extends over the back, ribs, loin, and rump. The brisket and flanks show a marked fullness and the muscling is firm.

(2) Bullocks qualifying for the minimum of the Prime grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Bullocks with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described as minimum for the Prime grade. Such bullocks have less width of back and loin and are less uniform in width than described as typical for the Prime grade but the muscling is firmer than described. Conversely, bullocks with lower cutability than normal for this grade are thinly muscled and have a higher degree of fatness than described as minimum for the Prime grade.

(b) *Choice.* (1) Slaughter bullocks possessing minimum qualifications for the Choice grade carry a slightly thick fat covering over the top. The brisket and flanks appear moderately full and the muscling is moderately firm.

(2) Bullocks qualifying for the minimum of the Choice grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Bullocks with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described as minimum for the Choice grade but the muscling is firmer than described. Conversely, bullocks with lower cutability than normal for this grade are thinly muscled and have a higher degree of fatness than described as minimum for the Choice grade.

(c) *Good.* (1) Slaughter bullocks possessing minimum qualifications for the Good grade have a thin fat covering which is largely restricted to the back and loin. The brisket and flanks are slightly full and the muscling is slightly firm.

(2) Bullocks qualifying for the minimum of the Good grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Bullocks with higher cutability than normal for the grade are thickly muscled and have a lower degree of fatness than described as minimum for the Good grade. Such bullocks are less uniform in width than described as typical of the grade but the muscling is firmer than described. Conversely, bullocks with lower cutability than normal for this grade have thinner muscling and a higher degree of fatness than described as minimum for the Good grade.

(d) *Standard.* (1) Slaughter bullocks possessing minimum qualifications for the Standard grade have only a very thin covering of fat which is largely restricted to the back, loin, and upper rib.

(2) Bullocks qualifying for the minimum of this grade vary relatively little in their degree of fatness. Therefore, the range in cutability among bullocks that qualify for this grade is some-

what less than in the higher grades. Most of the cutability differences among bullocks qualifying for this grade are due to a wide range in muscling. Bullocks with higher cutability than normal for this grade may have a slightly lower degree of fatness than described but will have thick, well-rounded backs, wide loins, and prominent, thickly muscled shoulders. The width through the rounds will be greater than over the back. Bullocks with lower cutability than normal for this grade may have slightly more finish than described and will be upstanding and narrow. The loin, rump, and rounds will appear slightly sunken.

(e) *Utility.* The Utility grade includes only those bullocks that do not meet the minimum requirements specified for the Standard grade.

§ 53.206 Specifications for official U.S. standards for grades of slaughter cattle (Yield).

(a) *Yield Grade 1.* (1) Yield Grade 1 slaughter cattle produce carcasses with very high yields of boneless retail cuts. Cattle with characteristics qualifying them for the lower limits of Yield Grade 1 (near the borderline between Yield Grade 1 and Yield Grade 2) will differ considerably in appearance because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled cattle typical of the minimum of this grade have a high proportion of lean to bone. They are moderately wide and the width through the shoulders and rounds is greater than through the back. The top is well-rounded with no evidence of flatness, and the back and loin are thick and full. The rounds are deep, thick, and full and the width through the middle part of the rounds is greater than through the back. The shoulders are slightly prominent and the forearms are thick and full. These cattle have only a thin covering of fat over the back and rump. The flanks are slightly shallow and the brisket and cod or udder have little evidence of fullness. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.3 of an inch of fat over the ribeye and about 13.0 square inches of ribeye area.

(3) Because of the relatively low proportion of lean to bone, practically no thinly muscled cattle produce carcasses with an exceptionally high yield of boneless retail cuts. Therefore, it is unlikely that thinly muscled cattle will qualify for Yield Grade 1.

(4) Cattle qualifying for the minimum of Yield Grade 1 will differ widely in quality grade as a result of variations in distribution of finish and firmness of muscling. For example, young cattle which have considerable firmness of muscling and considerably greater deposits of fat in the brisket, flanks, twist, and cod or udder than described for Yield Grade 1 ordinarily will qualify for the Good or Choice grade. However, such cattle with typical or less than typical deposits of fat in the brisket, flanks, twist, and cod or udder usually will qualify for the Standard or Utility grade.

(b) *Yield Grade 2.* (1) Yield Grade 2 slaughter cattle produce carcasses with high yields of boneless retail cuts. Cattle with characteristics qualifying them for the lower limits of Yield Grade 2 (near the borderline between Yield Grade 2 and Yield Grade 3) will differ considerably in appearance because of differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled cattle typical of the minimum of this grade have a high proportion of lean to bone. They are wide through the back and loin and have slightly greater width through the shoulders and rounds than through the back. The top is well-rounded with little evidence of flatness and the back and loin are thick and full. The rounds are thick, full, and deep and the thickness through the middle part of the rounds is greater than that over the top. The shoulders are slightly prominent and the forearms are thick and full. There is a slightly thick covering of fat over the back and rump and the flanks are slightly deep. The brisket and cod or udder are slightly full. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.6 of an inch of fat over the

ribeye and about 12.5 square inches of ribeye area.

(3) Thinly muscled cattle typical of the minimum of this grade have a relatively low proportion of lean to bone. They tend to be flat and slightly narrow over the back and have slightly long, flat rounds. They are slightly wider over the back than through the rounds. The shoulders are slightly prominent and the forearms are only slightly thick. These cattle have a thin covering of fat over the back and rump. The flanks are slightly shallow and thin and the brisket and cod or udder have little evidence of fullness. Slaughter cattle of this description producing 600-pound carcasses usually have 0.3 of an inch of fat over the ribeye and about 10.0 square inches of ribeye area.

(4) Cattle qualifying for the minimum of Yield Grade 2 will differ greatly in quality grade as a result of variations in distribution of finish and firmness of muscling. For example, young cattle which have considerable firmness of muscling and typical or greater deposits of fat in the brisket, flanks, twist, and cod or udder than described for Yield Grade 2 ordinarily will qualify for Prime or Choice. Conversely, such cattle with less than typical deposits of fat in the brisket, flanks, twist, and cod or udder usually will qualify for the Good or Standard grade.

(c) *Yield Grade 3.* (1) Yield Grade 3 slaughter cattle produce carcasses with intermediate yields of boneless retail cuts. Cattle with characteristics qualifying them for the lower limits of Yield Grade 3 (near the borderline between Yield Grades 3 and 4) will differ considerably in appearance because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled cattle typical of the minimum of this grade have a high proportion of lean to bone. They are very wide through the back and loin and are uniform in width from front to rear. The back or top is nearly flat with only a slight tendency toward roundness and there is a slight break into the sides. The back and loin are very full and thick. The rounds are deep, thick, and full. The shoulders are smooth and the forearms are thick and full. There is a moderately thick covering of fat over the back and rump. The flanks are deep and full and the brisket and cod or udder are full. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.9 of an inch of fat over the ribeye and about 12.0 square inches of ribeye area.

(3) Thinly muscled cattle typical of the minimum of this grade have a relatively low proportion of lean to bone. They are flat and slightly wide over the back and loin and are wider over the back than through the rounds. The shoulders are slightly smooth and the forearms are only slightly thick. These cattle tend to have a slightly thick covering of fat over the back and rump. The flanks are slightly deep and full and the brisket and cod or udder are slightly full. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.6 of an inch of fat over the ribeye and about 9.5 square inches of ribeye area.

(4) Cattle qualifying for the minimum of Yield Grade 3 will differ greatly in quality grade as a result of wide variations in distribution of finish and firmness of muscling. Cattle with higher quality than normal for the minimum of this grade will have very firm muscling and will have greater deposits of fat in the brisket, flanks, twist, and cod or udder than described for Yield Grade 3 and will normally qualify for the Prime or Choice grade. Conversely, cattle with lower quality than normal for the minimum of this grade will have less deposits of fat in the brisket, flanks, twist, and cod or udder than described herein, and may only qualify for the Good grade.

(d) *Yield Grade 4.* (1) Yield Grade 4 slaughter cattle produce carcasses with moderately low yields of boneless retail cuts. Cattle with characteristics qualifying them for the lower limits of Yield Grade 4 (near the borderline between Yield Grades 4 and 5) will differ considerably in appearance because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled cattle typical of the minimum of this grade have a high proportion of lean to bone. They appear wider over the top than through the shoulders or rounds. The back and loin are very thick and full, nearly flat, and break sharply into the sides. The rounds are deep, thick, and full. The shoulders are smooth and the forearms are thick and full. These cattle have a thick covering of fat over the back and rump. The flanks are very deep and full and the brisket and cod or udder are very full. Slaughter cattle of this description producing 600-pound carcasses usually have about 1.1 inches of fat over the ribeye and about 11.5 square inches of ribeye area.

(3) Thinly muscled cattle typical of the minimum of this grade have a relatively low ratio of lean to bone. They are flat over the back and loin and much wider through the back than through the shoulders or rounds. The rounds tend to be long and flat. The shoulders are smooth and the forearms are slightly thick. These cattle have a moderately thick covering of fat over the back and rump and the back breaks sharply into the sides. The flanks are deep and full and the brisket and cod or udder are full. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.9 of an inch of fat over the ribeye and about 9.0 square inches of ribeye area.

(4) Cattle qualifying for the minimum of Yield Grade 4 will differ somewhat in quality grade as a result of variations in distribution of the finish and firmness of muscling. Most cattle at the minimum of this grade will qualify for the Prime or Choice grade. However, some cattle at the minimum of Yield Grade 4 with less deposits of fat in the brisket, flanks, twist, and cod or udder than described as typical may only qualify for the Good grade.

(e) *Yield Grade 5.* (1) Yield Grade 5 slaughter cattle produce carcasses with low yields of boneless retail cuts. Cattle of this grade consist of those not meeting the minimum requirements for Yield Grade 4 because of either more fat or less muscle or a combination of these characteristics.

(2) Because of the high degree of finish required for cattle of this grade, the range in quality grades will be somewhat small. Practically all cattle of this grade will qualify for either the Prime or Choice grade.

§ 53.208 Feeder cattle grades.

(a) *Grade Factors.* (1) These standards apply only to cattle that have not reached the age of 36 months, except these grades may be used to describe stock cows for market reporting purposes.

(2) The grade of feeder cattle is determined by evaluating three general value-determining characteristics—frame size, thickness, and thriftiness.

(3) Frame size refers to the animal's skeletal size—its height and body length—in relation to its age. Thus, frame size evaluations are directly related to differences in mature size. At the same age, large frame cattle will be taller at the withers and the hips and longer bodied than small frame cattle.

(4) Thickness in feeder cattle refers to the development of the muscle system in relation to skeletal size. In feeder cattle of the same age and frame size variations in thickness are due to differences in bone structure, muscling, and degree of fatness. For purposes of these standards, thickness is evaluated, assuming a constant degree of fatness—slightly thin. Thicker feeder cattle will have a higher ratio of muscle to bone when fed to the same degree of fatness and will have a higher yield grade.

(5) Thriftiness refers to the apparent health of an animal and to its ability to grow and fatten normally. In these standards unthrifty animals are those which are not expected to perform normally in their present state. This may be due to such factors as disease, parasitism, severe emaciation, or any condition that must be corrected before they could be expected to perform normally. Unthrifty feeder cattle may have any combination of thickness and frame size.

(b) *Grades.* (1) The grades of feeder cattle that have been determined to be thrifty include three separate groupings for different frame sizes—Large

Frame, Medium Frame, and Small Frame and three separate groups for thickness—No. 1, No. 2, and No. 3. The nine resultant grades are as follows: Large Frame, No. 1; Large Frame, No. 2; Large Frame, No. 3; Medium Frame, No. 1; Medium Frame, No. 2; Medium Frame, No. 3; Small Frame, No. 1; Small Frame, No. 2; Small Frame, No. 3.

(2) The U.S. Inferior grade shall apply to all feeder cattle that have been determined to be unthrifty. Additionally, "double-muscled" (muscular hyperthrophy) cattle are graded Inferior because they cannot be expected to deposit intramuscular fat (marbling) normally.

[44 FR 45321, Aug. 1, 1979]

§ 53.209 Application of standards for grades of feeder cattle.

(a) *General Principles.* (1) For the grades of feeder cattle, separate evaluations are made for thriftiness, frame size, and thickness. Each of these factors are very important to feeder cattle buyers and individually affect how cattle will perform in the feedlot. Additionally, variations in frame size and thickness have separate effects on the ultimate carcasses that are produced.

(2) Variations in frame size among feeder cattle primarily affect the composition of their gain in weight. The gain in weight of a large framed feeder animal of a given degree of thickness normally will consist of more muscle and bone—but less fat—than a smaller framed animal. Indirectly, therefore, at a given weight and thickness, large framed animals will have a lesser degree of fatness than smaller framed animals and will also have carcasses with higher yield grades—but lower quality grades. This means that if animals are fed to produce the same quality grades—Choice, for example—large framed cattle of a given thickness must be fed to heavier weights than cattle of the same thickness but which are smaller framed. In each of the frame size specifications, guidelines are given relative to the live weights at which steers and heifers may each be expected to produce carcasses with the degree of finish normally associated with the Choice grade (approximately 0.50 inch).

(3) Variations in thickness are reflected in differences in ribeye area and, therefore, relate primarily to the ultimate yield grade of the carcass that a feeder animal will produce. When marketed at a given weight, a thick animal of a given frame size will normally produce a higher yield grading carcass than an animal of the same frame size that is narrow throughout. This results from the fact that the thick animal, at a given weight, will have both a larger ribeye and a lesser degree of fatness. If cattle are fed to produce carcasses of the same quality grade—Choice, for example—thick feeders of a given frame size must normally be fed to slightly heavier weights than cattle of the same frame size which are not as thick.

(4) The frame size portion of the grade is determined by an evaluation of an animal's skeletal size in relation to its age. Since age is such an important factor in determining frame size, careful consideration must be given to its evaluation. For example, two feeder cattle from the same environment with the same height and body length but which differed substantially in age would obviously not be the same frame size. By the same token, at a given age, a taller, longer bodied feeder animal will be larger framed than a short bodied animal that is not as tall. As feeder cattle mature, their heads appear to increase in relation to the size of their body; their ears decrease in size in relation to the size of their heads; the muzzle becomes proportionately wider; the head becomes longer in relation to its width; the feet become larger in relation to the size of the bone; and the tail increases in length and exhibits a more prominent switch. In evaluating feeder cattle for frame size, it must be remembered that breeds differ in the general range of their frame size and that since these standards apply to all breeds,

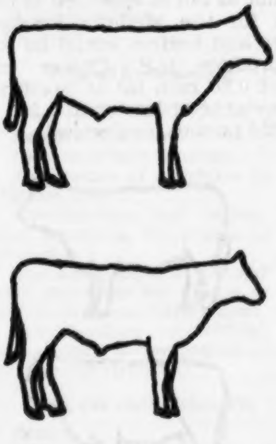
this variation in frame among breeds must be taken in account. For example, in these standards, the largest framed cattle in a breed of small mature size—and the smallest framed cattle in a breed of large mature size—might both be considered as Medium in frame size.

(5) The thickness portion of the grade is determined by appraising the development of the muscular system in relation to the development of the skeletal system. Two of the three thickness grades include detailed descriptions of the thickness and fullness of the feeder cattle in the various parts due to differences in bone structure and muscling. However, since the appearance of these parts may be influenced to a considerable extent by variations in fatness, the descriptions are based on animals that have a slightly thin covering of fat. When evaluating the thickness of animals which have either a greater or lesser degree of fatness than that on which the standards are based, proper allowances must be made for the effect of these differences on the appearance of the various parts. In making such allowances, it must be remembered that cattle deposit fat at a relatively faster rate over the loin and back and in the flank, cod or udder, twist, and brisket than they do through the rear quarter, forearm, and gaskin. Therefore, as cattle increase in fatness, these former parts appear progressively fuller, thicker, and more distended in relation to the thickness through the rear quarter and to the fullness of the forearm and gaskin. Since relatively little fat is deposited over these latter parts, their appearance is affected relatively little by variations in fatness. In evaluating the thickness of feeder cattle, it is important to properly evaluate the thickness in all parts of the animal. However, since variations in fatness make it especially difficult to precisely evaluate the thickness and fullness of muscling in the loin and back, major emphasis should be placed on the development of muscling in the rear quarter, forearm, and gaskin as an indicator of overall thickness. Unless proper allowance is made for variations in fatness, animals carrying considerable finish may appear to have greater thickness throughout than actually is the case, whereas those which are in very thin condition may be inherently thicker than their appearance might indicate.

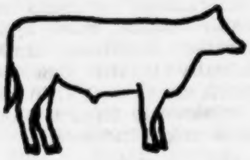
[44 FR 45322, Aug. 1, 1979]

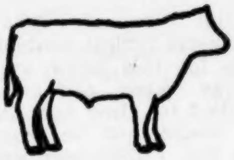
§ 53.210 Specifications for official United States standards for grades of thrifty feeder cattle (frame size).

(a) *Large Frame (L).* Feeder cattle which possess typical minimum qualifications for this grade are thrifty, have large frames, and are tall and long bodied for their age. Steers and heifers would not be expected to produce U.S. Choice carcasses (about 0.50 inch fat at twelth rib) until their live weights exceed 1200 pounds and 1000 pounds, respectively.

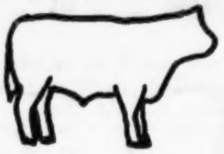


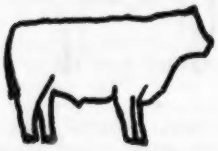
(b) *Medium Frame (M).* Feeder cattle which possess typical minimum qualifications for this grade are thrifty, have slightly large frames, and are slightly tall and slightly long bodied for their age. Steers and heifers would be expected to produce U.S. Choice carcasses (about 0.50 inch fat at twelth rib) at live weights of 1000 to 1200 pounds and 850 to 1000 pounds, respectively.





(c) Small Frame (S). Feeder cattle included in this grade are thrifty, have small frames, and are shorter bodied and not as tall as specified as the minimum for the Medium Frame grade. Steers and heifers would be expected to produce U.S. Choice carcasses (about 0.50 inch fat at twelfth rib) at live weights of less than 1,000 pounds and 850 pounds, respectively.

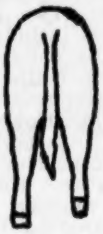




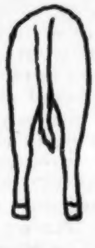
[44 FR 44322, Aug. 1, 1979]

§ 53.211 Specifications for official U.S. standards for grades of thrifty feeder cattle (Thickness).

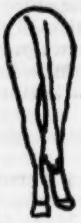
(a) *No. 1.* Feeder cattle which possess minimum qualifications for this grade usually show a high proportion of beef breeding. They must be thrifty and slightly thick throughout. They are slightly thick and full in the forearm and gaskin, showing a rounded appearance through the back and loin with moderate width between the legs, both front and rear. Cattle show this thickness with a slightly thin covering of fat; however, cattle eligible for this grade may carry varying degrees of fat.



(b) *No. 2.* Feeder cattle which possess minimum qualifications for this grade are thrifty and are narrow through the forequarter and the middle part of the rounds. The forearm and gaskin are thin and the back and loin have a sunken appearance. The legs are set close together, both front and rear. Cattle show this narrowness with a slightly thin covering of fat; however, cattle eligible for this grade may carry varying degrees of fat.



(c) *No. 3.* Feeder cattle included in this grade are thrifty animals which have less thickness than the minimum requirements specified for the No. 2 grade.



[44 FR 45323, Aug. 1, 1979]

§ 53.212 Specifications for official U.S. standards for the grade of unthrifty feeder cattle.

(a) *Inferior.* This grade includes those feeder cattle which are not expected to perform normally in their present state and those that are "double-muscled." Cattle in this grade may have any combination of thickness and frame size.

[44 FR 45323, Aug. 1, 1979]

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

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AUTHORITY: Agricultural Marketing Act of 1946, Secs. 203, 205, as amended; 60 stat. 1087, 1090, as amended (7 U.S.C. 1622 and 1624).

SOURCE: 42 FR 53921, Oct. 4, 1977, unless otherwise noted. Redesignated at 46 FR 63203, Dec. 31, 1981.

EDITORIAL NOTE: Nomenclature changes to Part 54 appear at 46 FR 63203, Dec. 31, 1981.

Subpart A—Regulations

DEFINITIONS

§ 54.1 Meaning of words.

Words used in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand. For the purposes of such regulations, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

Acceptance service. The service established and conducted under the regulations for the determination and certification or other identification of the compliance of products with specifications.

Administrator. The Administrator of the Agricultural Marketing Service, or any officer or employee of the Agricultural Marketing Service to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

Agricultural Marketing Service. The Agricultural Marketing Service of the Department.

Animals. Cattle, sheep, swine, or goats.

Applicant. Any person who has applied for service under the regulations.

Branch. The Meat Grading Branch of the Division.

Carcass. The commercially prepared or dressed body of any animal intended for human food.

Carcass Data Service. The service established and conducted under the regulations to provide producers and other interested persons with data on carcass characteristics.

Chief. The Chief of the Branch, or any officer or employee of the Branch to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

Class. A subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind of species.

Compliance. Conformity of a product to the specifications under which the product was purchased or sold, with particular reference to the quality, cleanliness, state of refrigeration, method of processing, and trim of products.

Cooperative agreement. A cooperative agreement between the Agricultural Marketing Service and another Federal agency or a State agency, or other agency, organization or person as specified in the Agricultural Marketing Act of 1946, as amended, for conducting the service.

Department. The United States Department of Agriculture.

Director. The Director of the Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

Division. The Meat Quality Division of the Agricultural Marketing Service.

Fabricating. Cutting into wholesale or retail cuts, dicing or grinding.

Federal Meat Inspection. The meat inspection system conducted under the Federal Meat Inspection Act as amended by the Wholesome Meat Act (21 U.S.C. 601 et seq.) and the regulations thereunder (9 CFR Chapter III, Subchapter A).

Financially interested person. Any person having a financial interest in the products involved, including but not limited to the shipper, receiver, producer, seller, buyer, or carrier of the products.

Grade. (1) As a noun, this term means an important commercial subdivision of a product based on certain definite and preference determining factors, such as, but not limited to, conformation, finish, and quality in meats.

(2) As a verb, this term means to determine the class, grade, or other quality of a product according to applicable standards for such product in Subpart B of this part.

Grading Service. The service established and conducted under the regulations for the determination and certification or other identification of the class, grade, or other quality of products under standards.

Immediate container. The carton, can, pot, tin, casing, wrapper, or other receptacle or covering constituting the basic unit in which products are directly contained or wrapped when packed in the customary manner for delivery to the meat trade or to consumers.

Legal Holiday. Those days designated as legal public holidays in Title 5, United States Code, section 6103(a).

Livestock. Bovine, ovine, porcine.

Meat. The edible part of the muscle of an animal, which is skeletal, or which is found in the tongue, in the diaphragm, in the heart, or in the esophagus, and which is intended for human food, with or without the accompanying and overlying fat and the portions of bone, skin, sinew, nerve, and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing. This term does not include the muscle found in the lips, snout, or ears.

Meat by-products. All edible parts (other than meat and prepared meats) intended for human food, derived from one or more animals, and including but not limited to such organs and parts as livers, kidneys, sweetbreads, brains, lungs, spleens, stomachs, tripe, lips, snouts, and ears.

Meat food products. Any articles intended for human food (other than meat, prepared meats, and meat by-products) which are derived or prepared in whole or in substantial and definite part, from any portion of any animal, except such articles as organotherapeutic substances, meat juice, meat extract, and the like, which are only for medicinal purposes and are advertised only to the medical profession.

Office of grading. The office of an official grader.

Official grader. An employee of the Department or other person authorized by the Department to determine and certify or otherwise identify the class, grade, other quality, or compliance of products under the regulations.

Person. Any individual, partnership, corporation, or other legal entity, or Government agency.

Prepared meats. The products intended for human food which are obtained by subjecting meat to drying, curing, smoking, cooking, grinding, seasoning, or flavoring, or to any combination of such procedures, and to which no considerable quantity of any substance other than meat or meat by-products has been added.

Processing. Drying, curing, smoking, cooking, seasoning, or flavoring or any combination of such processes, with or without fabricating.

Products. Meats, prepared meats, meat by-products, or meat food products.

Quality. A combination of the inherent properties of a product which determines its relative degree of excellence.

Quality grade. A designation based on those characteristics of meat which predict the palatability characteristics of the lean.

Service. Grading service or acceptance service.

Shipping container. The receptacle or covering in which one or more immediate containers of products are packed for transportation.

Specifications. Descriptions with respect to the class, grade, other quality, quantity or condition of products, approved by the Administrator, and available for use by the industry regardless of the origin of the descriptions.

Standards. The standards of the Department contained in Subpart B of this part.

Supervisor of grading. An official grader or other person designated by the Director or Chief to supervise and maintain uniformity and accuracy of service under the regulations.

The Act. The Agricultural Marketing Act of 1946 (Title II of the act of Congress approved August 14, 1946, 60 Stat. 1087, as amended by Pub. L. 272, 84th Cong., 69 Stat. 553, 7 U.S.C. 1621-1627).

The regulations. The regulations in this subpart.

Yield grade. A designation which reflects the estimated yield of retail cuts that may be obtained from a beef, lamb, yearling mutton, or mutton carcass.

[42 FR 53921, Oct. 4, 1977, as amended at 45 FR 51762, Aug. 5, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 54.2 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Pub. L. 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, used under the regulations to certify with respect to the inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, determining compliance, inspecting, or sampling pursuant to the regulations, any processing or plant-operation report made by an authorized person in connection with grading, determining compliance, inspecting, or sampling under the regulations, and any report made by an authorized person of services performed pursuant to the regulations.

(c) "Official mark" or "other official identification" means any form of mark or other identification, including those prescribed in § 54.17; used under the regulations in marking any products, or the immediate or shipping containers thereof, to show inspection class, grade quality, size quantity, or condition of the products (including the compliance of products with applicable specifications), or to maintain the identity of products for which service is provided under the regulations.

(d) "Official device" means any roller, stamp, brand or other device used under the regulations to mark any products or the immediate or shipping containers, thereof, with any official mark or other official identification.

ADMINISTRATION

§ 54.3 Authority.

The Chief is charged with the administration, under the general supervision and direction of the Director, of the regulations and the Act insofar as they relate to products.

SERVICE

§ 54.4 Kind of service.

Grading service under the regulations shall consist of the determination and certification and other identification, upon request by the applicant, of the class, grade, or other quality of products under applicable standards in Subpart B of this part. Class, grade, and other quality may be determined under said standards for meat of cattle, sheep, or swine in carcass form only, except upon approval by the Director upon his determination of good cause and provided that the meat can be identified in conformance with the standards. Acceptance service under the regulations shall consist of the determination of the conformity of products to specifications approved by the Director or Chief and the certification and other identification of such livestock or products in accordance with specifications, upon request by the applicant. Determination as to product compliance with specifications for ingredient content or method of preparation may be based upon information received from the inspection system having jurisdiction over the products involved. The Carcass Data Service, under the regulations, shall consist of the evaluation of carcass characteristics, in accordance with applicable official United States Standards which appear in Subpart B of this part, of carcasses of animals identified with the official eartag as shown in § 54.17, the recording of such data, and transmittal of the data to, or as directed by, the applicant for the service.

[42 FR 53921, Oct. 4, 1977, as amended at 45 FR 51762, Aug. 5, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 54.5 Availability of service.

Service under these regulations may be made available with respect to products shipped or received in interstate commerce, and with respect to the products not so shipped or received if the Director or Chief determines that the furnishing of service for such products would facilitate the marketing, distribution, processing, or utilization of agricultural products through commercial channels. Also, such service may be made available under a cooperative agreement. Service under these regulations shall be provided without discrimination as to race, color, sex, creed, or national origin. Service will be furnished for products only if they were derived from animals slaughtered in federally inspected establishments or operated under State meat inspection in a State other than one designated in 9 CFR 331.2. Service under these regulations will be furnished for imported meat only if it is marked so that the name of the country of origin appears on most of the major retail cuts. The mark of foreign origin shall be imprinted by roller brand or handstamp and shall be applied so that the imprint is at least 2 inches from the backbone of lamb, 3 inches from the backbone of veal and calf, and 4 inches from the backbone of beef carcasses. The mark of foreign origin shall be repeated parallel to the backbone of the carcass so as to appear on each round, rump, full loin, rib, and chuck of each bovine and ovine carcass in letters at least one-fourth of an inch high, with no more than three-fourths of an inch space between impressions. Imprints of each such brand shall be submitted to the Chief for the determination of compliance with these regulations prior to use of the brand on meats offered for Federal grading. It shall be the responsibility of the applicant to notify the meat grade performing the service whenever imported meat is offered for grading.

§ 54.6 How to obtain service.

(a) *Application.* Any person may apply to the Director or Chief for service under the regulations with respect to products in which the applicant is financially interested. The application shall be made on a form approved by the Director. In any case in which the service is intended to be furnished at an establishment not operated by the applicant, the application shall be approved by the operator of such establishment and such approval shall constitute an authorization for any employees of the Department to enter the establishment for the purpose of performing their functions under the regulations. The application shall state:

(1) The name and address of the establishment at which service is desired; (2) the name and post office address of the applicant; (3) the financial interest of the applicant in the products, except where application is made by an official of a Government agency in his official capacity; and (4) the signature of the applicant (or the signature and title of his representative). The application shall indicate the

legal status of the applicant as an individual, partnership, corporation, or other form of legal entity. Any change in such status, at any time while service is being received, shall be promptly reported to the Director or Chief by the person receiving the service.

(b) *Notice of eligibility for service.* The applicant for service at any establishment will be notified whether his application is approved.

(c) *Request by applicant for service*—(1) *Noncommitment.* Upon notification of the approval on an application for service, the applicant may, from time to time as desired, make oral or written requests for service under the regulations with respect to specific products for which the service is to be furnished under such application. Such requests shall be made at an office for grading either directly or through any employee of the Agricultural Marketing Service who may be designated for such purposes.

(2) *Commitment.* If desired, the applicant may request to enter into an agreement with the Agricultural Marketing Service for the furnishing of service on a weekly commitment basis, whereby the applicant agrees to pay for 8 hours of service per day, 5 days per week, Monday through Friday, excluding Federal legal holidays occurring Monday through Friday on which no grading and certification services are performed, as provided in § 54.27(b), and the Agricultural Marketing Service agrees to make an official grader available to perform such service for the applicant. However, the Agricultural Marketing Service reserves the right to use any grader assigned to a plant under such a commitment to perform service for other applicants when, in the opinion of the Chief, the grader is not needed to perform service for the commitment applicant. An applicant who terminates a commitment, and within 1 year after cancellation is granted a new commitment at his request, shall pay for the moving costs actually incurred by the Agricultural Marketing Service to cover the transfer of the grader who will service the applicant's new commitment. If more than one applicant is involved in the reapplication for a canceled meat grading and certification commitment requiring the transfer of the grader, the moving costs will be prorated among the applicants according to each applicant's committed portion of the grader's services. However, the moving costs will be charged only to those applicants who were parties to the previously canceled commitment. An applicant may, for periods of 3 months or less, enter into an agreement by memorandum with the Agricultural Marketing Service for the furnishing of service on a weekly basis. In the latter case, transfer of graders would not be involved and charges will be made in accordance with § 54.27.

[42 FR 53921, Oct. 4, 1977. Redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 47 FR 44704, Oct. 12, 1982]

§ 54.7 Order of furnishing service.

Service under the regulations shall be furnished to applicants in the order in which requests therefor are received, insofar as consistent with good management, efficiency and economy. Precedence will be given, when necessary, to requests made by any government agency or any regular user of the service, and to requests for appeal service under § 54.20.

§ 54.8 When request for service deemed made.

A request for service under the regulations shall be deemed to be made when received by an office of grading. Records showing the date and time of the request shall be made and kept in such office. However, in the case of the Carcass Data Service, the purchase of official USDA eartags shall constitute a request for such service and the requisition form used to purchase the eartags shall be kept in the designated office of record.

§ 54.9 Withdrawal of application or request for service.

An application or a request for service under the regulations may be withdrawn by the applicant at any time before the application is approved or prior to performance of service, upon payment, in accordance with §§ 54.27 and 54.28, of any expenses already incurred by the Agricultural Marketing Service in connection therewith.

§ 54.10 Authority of agent.

Proof of the authority of any person making an application or a request for service under the regulations on behalf of any other person may be required at the discretion of the Director or Chief or the official in charge of the office of grading or other employee receiving the application or request under § 54.6.

§ 54.11 Denial or withdrawal of service.

(a) *For misconduct*—(1) *Bases for denial or withdrawal.* An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person who, or whose employee or agent in the scope of his employment or agency, (i) has wilfully made any misrepresentation or has committed any other fraudulent or deceptive practice in connection with any application or request for service under the regulations; (ii) has given or attempted to give, as a loan or for any other purpose, any money, favor, or other thing of value, to any employee of the Department authorized to perform any function under the regulations; (iii) has interfered with or obstructed, or attempted to interfere with or to obstruct, any employee of the Department in the performance of his duties under the regulations by intimidation, threats, assaults, abuse, or any other improper means; (iv) has knowingly falsely made, issued, altered, forged, or counterfeited any official certificate, memorandum, mark, or other identification, or device for making any such mark or identification; (v) has knowingly uttered, published, or used as true any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device; (vi) has knowingly obtained or retained possession of any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device, or of any such official device, or of any product bearing any such falsely made, issued, altered, forged, or counterfeited mark or identification, or of any carcass or wholesale or retail cut bearing any designation specified in paragraph (a)(1)(vii) of this section which has not been federally graded or derived from a carcass graded as being of the indicated grade; (vii) has applied the designation "Prime," "Choice," "Good," "Standard," "Commercial," "Utility," "Cutter," "Canner," "Cull," "Medium," "No. 1," "No. 2," "No. 3," "No. 4," "Yield Grade 1," "Yield Grade 2," "Yield Grade 3," "Yield Grade 4," or "Yield Grade 5" by stamp, or brand directly on any carcass, wholesale cut, or retail cut of any carcass, as part of a grade designation; or (viii) has applied to immediate containers or shipping containers of carcasses, wholesale cuts, or retail cuts, grade designations specified in paragraph (a)(1)(vii) of this section, when such carcasses, wholesale cuts, or retail cuts contained therein have not been federally graded; or (ix) has knowingly used, moved, or otherwise altered, in any manner, meat or meat products identified by an official product control device, mark, or other identification as specified in Section 54.17, or has removed such official device, mark, or identification from the meat or meat products so identified without the express permission of an authorized representative of the USDA; or (x) has in any manner not specified in this paragraph violated subsection 203(h) of the AMA: *Provided,* That paragraph (a)(1)(vi) of this section shall not be deemed to be violated if the person in possession of any item mentioned therein notifies the Director or Chief without such delay that he has possession of such item and, in the case of an official device, surrenders it to the Chief, and, in the case of any other item, surrenders it to the Director or Chief or destroys it or brings it into compliance with the regulations by obliterating or removing the violative features under supervision of the Director or Chief: *And provided further, That* paragraphs (a)(1)(ii) through (ix) of this section shall not be deemed to be violated by any act committed by any person prior to the making of an application of service under the regulations by the principal person. An application or a request for service may be rejected or the benefits of the service may be otherwise denied to, or withdrawn from, any person who operates an establishment for which he has made application for service if, with the knowledge of such operator, any other person conducting any operations in such establishment has committed any of the offenses specified in paragraphs (a)(1)(i) through (x) of this section after such application was made. Moreover, an application or a request for service made in the name of a person otherwise eligible for service under the regulations may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, such a person (A) in case the service is or would be performed at an establishment operated (*1*) by a corporation, partnership, or other person from whom the benefits of the service are currently being withheld under this paragraph, or (*2*) by a corporation, partnership, or other person having an officer, director, partner, or substantial investor from whom the benefits of the service are currently being withheld and who has any authority with respect to the establishment where service is or would be performed; or (B) in case the service is or would be performed with respect to any product in which any corporation, partnership, or other person within paragraph (a)(1)(x)(A)(*1*) of this section has a contract or other financial interest.

(2) *Procedure.* All cases arising under this paragraph shall be conducted in accordance with the rules of practice governing withdrawal of inspection and grading service under the Agricultural Marketing Act of 1946 as contained in Part 2850 of this chapter and/or the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary as contained in 7 CFR Part 1, Subpart H, as applicable.

(b) *For miscellaneous reasons.* An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person, without a hearing by the official in charge of the appropriate office of grading, with the concurrence of the Director or Chief (1) for administrative reasons such as the nonavailability of personnel to perform the service; (2) for the failure to pay for service; (3) in case the application or request relates to products which are not eligible for service under § 54.5 or which are unclean or are in an unclean establishment; (4) for other noncompliance with the conditions on which service is available as provided in the regulations, except matters covered by paragraph (a) of this section; or (5) in case the person is a partnership, corporation, or other person from whom the benefits of the service are currently being withheld under paragraph (a) of this section. Notice of such denial or withdrawal, and the reasons therefor, shall promptly be given to the person involved.

(c) *Filing of records.* The final orders in formal proceedings under paragraph (a) of this section to deny or withdraw the service under the regulations (except orders required for good cause to be held confidential and not cited as precedents) and other records in such proceedings (except those required for good cause to be held confidential) shall be filed with the Hearing Clerk and shall be available for inspection by persons having a proper interest therein.

[42 FR 53921, Oct. 4, 1977. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 50 FR 14366, Apr. 12, 1985]

§ 54.12 Financial interest of official grader.

No official grader shall grade or determine compliance of any products in which he or any of his relatives by blood or marriage is directly or indirectly financially interested.

§ 54.13 Accessibility and refrigeration of products; access to establishments.

(a) The applicant shall cause products, with respect to which service is requested, to be made easily accessible for examination and to be so placed, with adequate illuminating facilities, as to disclose their class, grade, other quality, and compliance. Supervisors of grading and other employees of the Department responsible for maintaining uniformity and accuracy of service under the regulations shall have access to all parts of establishments covered by approved applications for service under the regulations, for the purpose of examining all products in the establishments which have been or are to be graded or examined for compliance with specifications or which bear any marks of grade or compliance.

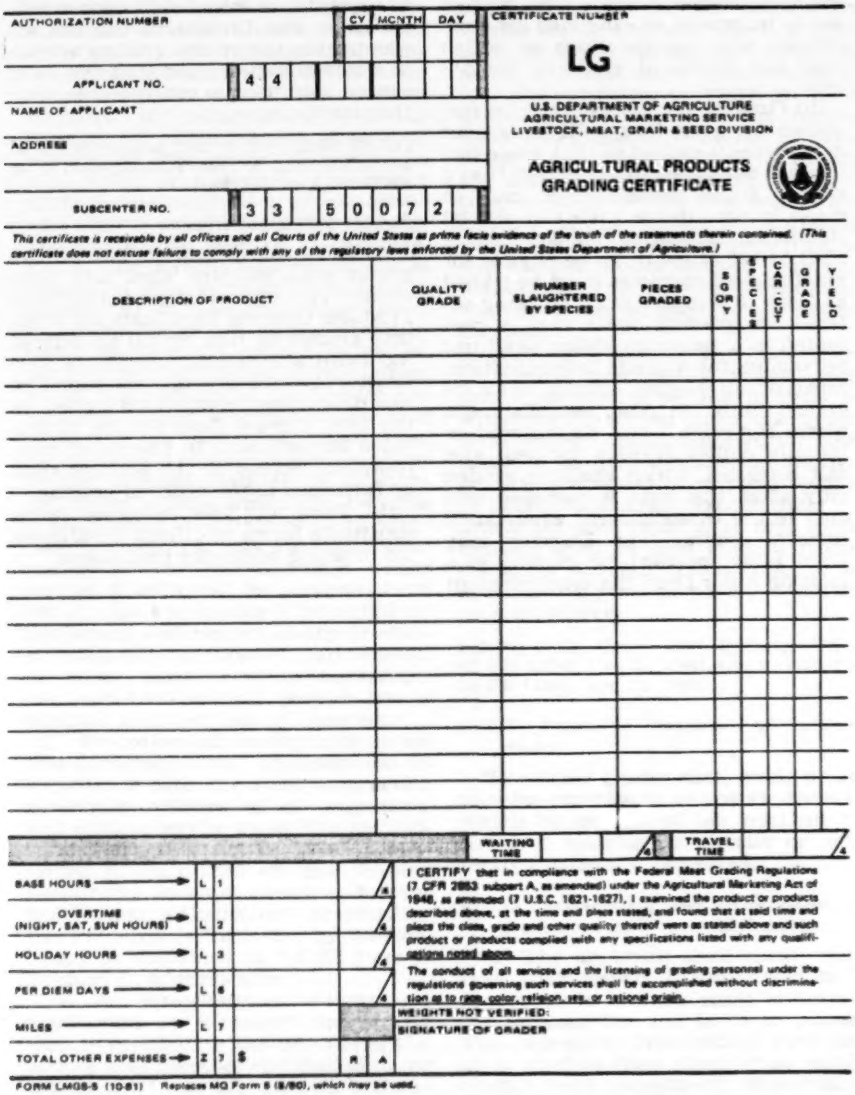
(b) Grading service will only be furnished for meat that a USDA grader determines is chilled so that grade factors are developed to the extent that a proper grade determination can be made in accordance with the official standards (Subpart B of Part 54 (7 CFR 54.102 *et seq.*)). To be eligible for grading, beef carcasses must be ribbed at least 10 minutes prior to being offered for grading. Meat that is presented in a frozen condition shall not be eligible for a grade determination. Meat of all eligible species shall be graded only in the establishment where the animal was slaughtered or initially chilled (except for veal and calf carcasses, which shall be graded only after the hide is removed and only in the establishment where such removal occurs). The Director may grant prior approval for grading at a location other than the establishment of slaughter or initial chill upon notification to the Division if the Branch was unable to provide grading service in a timely manner and that the meat can be identified in conformance with the standards.

[42 FR 53921, Oct. 4, 1977, as amended at 45 FR 51762, Aug. 5, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 54.14 Official certificates.

(a) *Required; exception.* The official grader shall prepare, sign, and issue either (1) an official Agricultural Products Grading Certificate for products graded by him, or (2) an official Agricultural Products Acceptance Certificate covering products for which he has determined compliance except in the Beef Carcass Data Service as provided for in § 54.4. In the latter case, complete records of the services shall be furnished to the office of grading.

(b) *Form.* (1) The following forms constitute forms of official certificates for products under the regulations.



AUTHORIZATION NUMBER	CY	MONTH	DAY
APPLICANT NO. 4 4			

CERTIFICATE NUMBER

LG

NAME OF APPLICANT

ADDRESS

SUBCENTER NO. 3 3 5 0 0 7 2

U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
LIVESTOCK, MEAT, GRAIN & SEED DIVISION

AGRICULTURAL PRODUCTS
GRADING CERTIFICATE

This certificate is receivable by all officers and all Courts of the United States as prima facie evidence of the truth of the statements therein contained. (This certificate does not excuse failure to comply with any of the regulatory laws enforced by the United States Department of Agriculture.)

DESCRIPTION OF PRODUCT	QUALITY GRADE	NUMBER SLAUGHTERED BY SPECIES	PIECES GRADED	S G OR Y	SPECIES	CAR-CUT	GRADE	YIELD

WAITING TIME	4	TRAVEL TIME	4

BASE HOURS →	L	1		4
OVERTIME (NIGHT, SAT, SUN HOURS) →	L	2		4
HOLIDAY HOURS →	L	3		4
PER DIEM DAYS →	L	6		4
MILES →	L	7		
TOTAL OTHER EXPENSES →	Z	7	$	R A

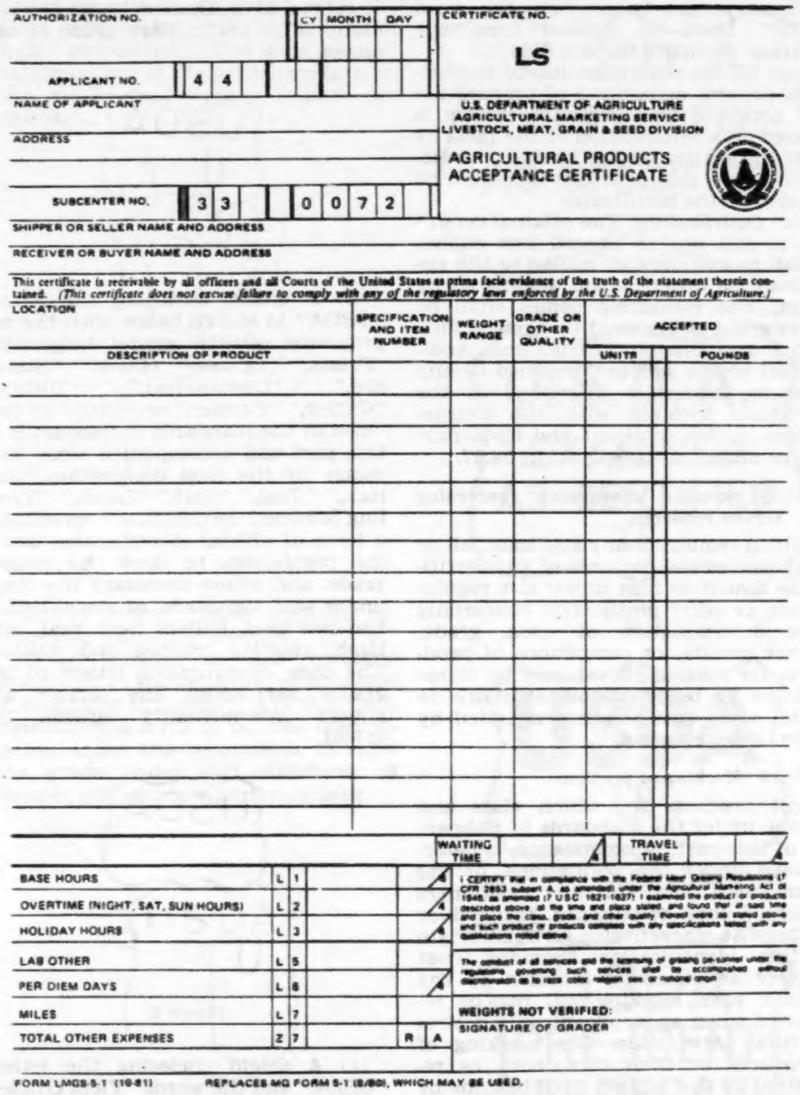
I CERTIFY that in compliance with the Federal Meat Grading Regulations (7 CFR 2853 subpart A, as amended) under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627), I examined the product or products described above, at the time and place stated, and found that at said time and place the class, grade and other quality thereof were as stated above and such product or products complied with any specifications listed with any qualifications noted above.

The conduct of all services and the licensing of grading personnel under the regulations governing such services shall be accomplished without discrimination as to race, color, religion, sex, or national origin.

WEIGHTS NOT VERIFIED:

SIGNATURE OF GRADER

FORM LMGS-5 (10-81) Replaces MG Form 5 (8/80), which may be used.



AUTHORIZATION NO.	CY MONTH DAY	CERTIFICATE NO. LS	
APPLICANT NO.	4 4		
SUBCENTER NO.	3 3	0 0 7 2	

NAME OF APPLICANT

ADDRESS

U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
LIVESTOCK, MEAT, GRAIN & SEED DIVISION

AGRICULTURAL PRODUCTS
ACCEPTANCE CERTIFICATE

SHIPPER OR SELLER NAME AND ADDRESS

RECEIVER OR BUYER NAME AND ADDRESS

This certificate is receivable by all officers and all Courts of the United States as prima facie evidence of the truth of the statement therein contained. *(This certificate does not excuse failure to comply with any of the regulatory laws enforced by the U.S. Department of Agriculture.)*

LOCATION

DESCRIPTION OF PRODUCT	SPECIFICATION AND ITEM NUMBER	WEIGHT RANGE	GRADE OR OTHER QUALITY	ACCEPTED	
				UNITS	POUNDS

				WAITING TIME	4	TRAVEL TIME	4
BASE HOURS	L	1		4			
OVERTIME (NIGHT, SAT, SUN HOURS)	L	2		4			
HOLIDAY HOURS	L	3		4			
LAB OTHER	L	5					
PER DIEM DAYS	L	6		4			
MILES	L	7					
TOTAL OTHER EXPENSES	Z	7		R A			

I CERTIFY that in compliance with the Federal Meat Grading Regulations (7 CFR 2853 subpart A, as amended) under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627) I examined the product or products described above, at the time and place stated, and found that at said time and place the class, grade, and other quality thereof were as stated above and such product or products complies with any specifications listed with any qualifications noted above.

The conduct of all services and the licensing of grading personnel under the regulations governing such services shall be accomplished without discrimination as to race, color, religion, sex, or national origin.

WEIGHTS NOT VERIFIED:

SIGNATURE OF GRADER

FORM LMGS-5-1 (10-81) REPLACES MG FORM 5-1 (8/80), WHICH MAY BE USED.

Where weight is certified, the word "Not" shall be deleted from the phrase "Weights Not Verified."

(2) Where determination of ingredient content or method of preparation of products in acceptance service is based on a certification of the facts by the inspection system having jurisdiction of the products, this fact shall be stated on the certificates.

(c) *Distribution.* The original certificate, and not to exceed two copies, shall be delivered or mailed to the applicant or other person designated by him. The remaining copies shall be forwarded as required by agency, division, and branch instructions. Additional copies will be furnished to any person financially interested in the products involved with the concurrence of the applicant and upon payment of fees, as provided in § 54.27.

§ 54.15 Advance information concerning service rendered.

Upon request of any applicant, all or any part of the contents of any certificate issued to him under the regulations, or other notification concerning the determination of class, grade, other quality, or compliance of products for such applicant may be transmitted by telegraph or telephone to him, or to any person designated by him, at his expense.

§ 54.16 Marking of products.

All products for which class and grade under the standards in Subpart B of this part, or compliance, is determined under the regulations, or the immediate and shipping containers thereof, shall be stamped, branded, or otherwise marked with an appropriate official identification: *Provided,* That except as otherwise directed by the Chief, such marking will not be required when an applicant only desires official certificates. The marking of products, or their containers, as required by this section shall be done by official graders or under their immediate supervision.

§ 54.17 Official identifications.

(a) A shield enclosing the letters "USDA" and code identification letters of the grader performing the service, as shown below, constitutes a form of official identification under the regulations for preliminary grade of carcasses.

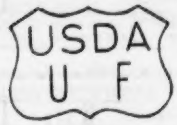


Figure 1.

(b) A shield enclosing the letters "USDA" as shown below with the appropriate quality grade designation "Prime," "Choice," "Good," "Standard," "Commerical," "Utility," "Cutter," "Canner," or "Cull," as provided in the standards in Subpart B of this part and accompanied when necessary by the class designation "Bullock," "Veal," "Calf," "Lamb," "Yearling Mutton," or "Mutton," constitutes a form of official identification under the regulations to show the quality grade, and where necessary the class, under said standards, of steer, heifer, and cow beef, bullock beef, veal, calf, lamb, yearling mutton and mutton. The code identification letters of the grader performing the service will appear intermittently outside the shield.

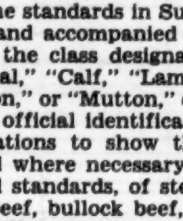


Figure 2.

(c) A shield enclosing the letters "USDA" and the words "Yield Grade," as shown below, with the appropriate yield grade designation "1," "2," "3," "4," or "5" as provided in the standards in Subpart B of this part constitutes a form of official identification under the regulations to show the yield grade under said standards. When yield graded, bull and bullock carcasses will be identified with the class designation "Bull" and "Bullock," respectively. The code identification letters of the grader performing the service will appear outside the shield.

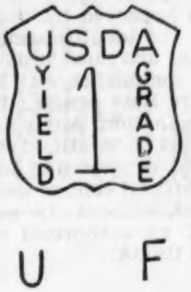

USDA
1
YIELD
GRADE
U
F

Figure 1.

(d) The letters "USDA" with the appropriate grade designation "1," "2," "3," "4," "Utility," or "Cull" enclosed in a shield as shown below, as provided in standards in Subpart B of this part, constitutes a form of official identification under the regulations to show the grade under said standards of barrow, gilt, and sow pork carcasses.

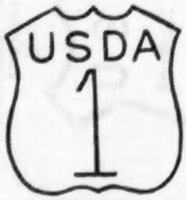


Figure 2.

(e) The following constitute forms of official identification under the regulations to show compliance of products:

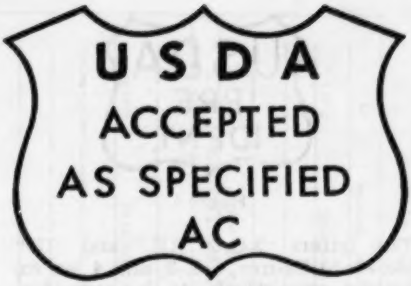

U S D A
ACCEPTED
AS SPECIFIED
AC

Figure 1.

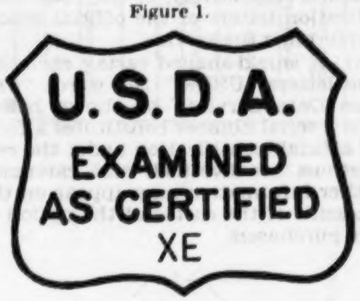

U.S.D.A.
EXAMINED
AS CERTIFIED
XE

Figure 2.

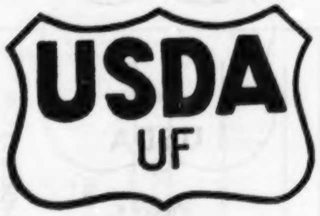


Figure 3.

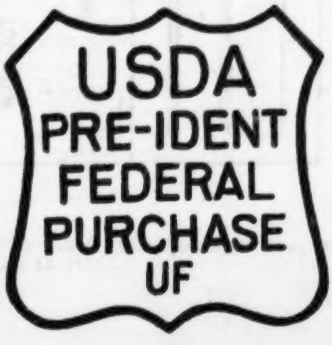

USDA
PRE-IDENT
FEDERAL
PURCHASE
UF

Figure 4.

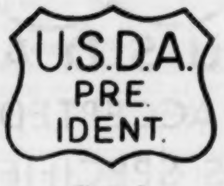


Figure 5.

The letters "AC," "XE," and "UF" shown in figures 1, 2, 3, and 4 are examples, respectively, of the code identification letters of the official grader performing the service.

(f) A shield-shaped eartag enclosing the letters "USDA," the words "Carcass Data Service," as shown below, and a serial number constitutes a form of official identification under the regulations for livestock and carcasses. Other information may appear on the backside of the eartag at the option of the purchasers.

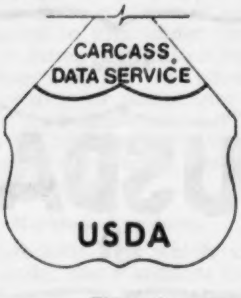
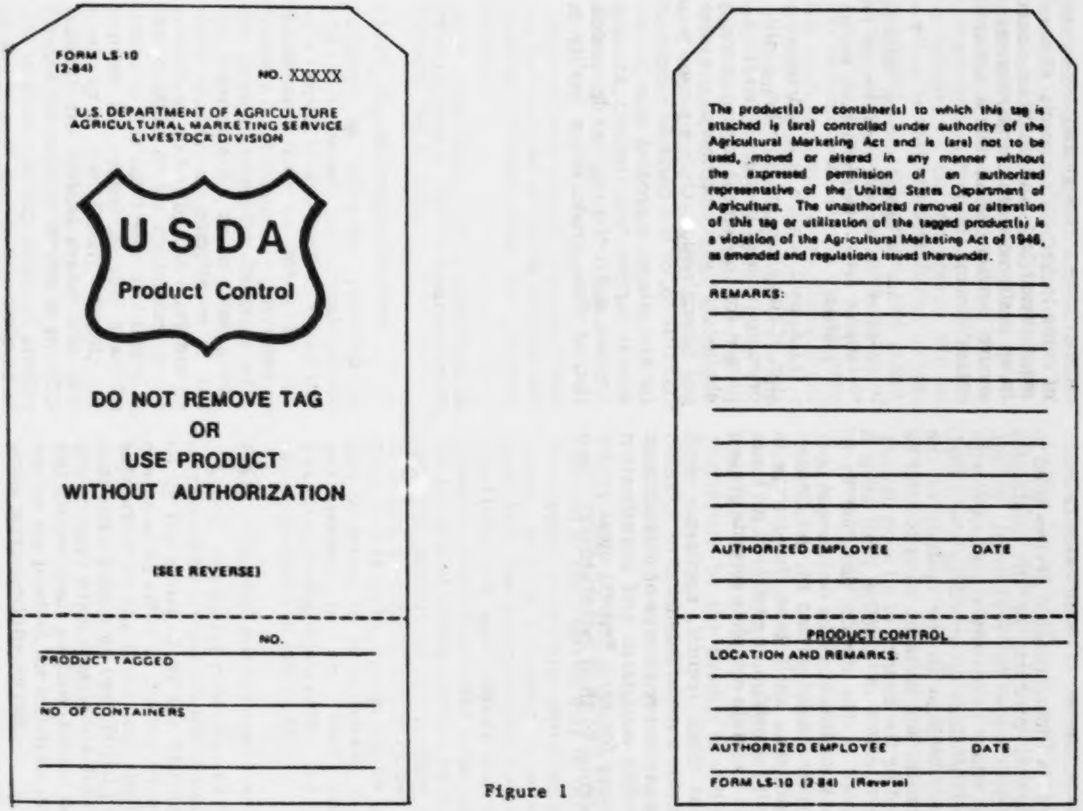


Figure 6.

(g) A rectangular, serially numbered tag, on which a shield encloses the letters "USDA" and the words "Product Control," as shown in Figure 1, constitutes a form of official identification under the regulations for meat and meat products. Official graders and supervisors of grading may use "Product Control" tags or other methods and devices as approved by the Administrator for the identification and control of meat and meat products which are not in compliance with the regulations or are held pending the results of an examination. Any such meat or meat product so identified shall not be used, moved, or altered in any manner; nor shall official control identification be removed, without the express permission of an authorized representative of the USDA.



FORM LS-10
(2-84)

NO. XXXXX

U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
LIVESTOCK DIVISION

USDA
Product Control

DO NOT REMOVE TAG
OR
USE PRODUCT
WITHOUT AUTHORIZATION

(SEE REVERSE)

NO.

PRODUCT TAGGED

NO OF CONTAINERS

Obverse

The product(s) or container(s) to which this tag is attached is (are) controlled under authority of the Agricultural Marketing Act and is (are) not to be used, moved or altered in any manner without the expressed permission of an authorized representative of the United States Department of Agriculture. The unauthorized removal or alteration of this tag or utilization of the tagged product(s) is a violation of the Agricultural Marketing Act of 1946, as amended and regulations issued thereunder.

REMARKS:

AUTHORIZED EMPLOYEE DATE

PRODUCT CONTROL

LOCATION AND REMARKS

AUTHORIZED EMPLOYEE DATE

FORM LS-10 (2-84) (Reverse)

Reverse

Figure 1

[42 FR 53921, Oct. 4, 1977, as amended at 45 FR 51762, Aug. 5, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 50 FR 14367, Apr. 12, 1985]

§ 54.18 Custody of identification devices.

(a) All identification devices used in marking products or the containers thereof under the regulations, including those indicating compliance with specifications approved by the Chief, shall be kept in the custody of the Branch, and accurate records shall be kept by the Branch of all such devices. Each office of grading shall keep a record of the devices assigned to it. Such devices shall be distributed only to persons authorized by the Department, who shall keep the devices in their possession or control at all times and maintain complete records of such devices.

(b) Upon request, applicants shall provide a metal cabinet(s) or locker(s) for the secure storage of official meat grading equipment and identification devices for each Federal meat grader assigned to their establishment. Such cabinet(s) or locker(s) shall be capable of being locked with a special Government-owned lock and shall be placed in an easily accessible and reasonably secure location within the applicant's establishment.

APPEAL SERVICE

§ 54.19 What is appeal service; marking products on appeal; requirements for appeal; certain determinations not appealable.

(a) Appeal service is a redetermination of the class, grade, other quality, or compliance of product when the applicant for the appeal service formally challenges the correctness of the original determination. Only a person who has title to, or is a party to a contract for the sale of, a product may request appeal service with respect to such product and if the original determination of class, grade, other quality or compliance is found on appeal to have been in error all incorrect marks of class, grade, other quality and compliance will be removed from the product, and if the person having title to the product so requests, correct marks as determined on the appeal will be applied to the product. Examination requested to determine the class, grade, other quality, or compliance of a product which has been altered or has undergone a material change since the original service, or examination of product requested for the purpose of obtaining an up-to-date certificate and not involving any question as to the correctness of the original service for the product involved shall be considered equivalent to original service and not appeal service.

(b) Grade determinations cannot be appealed for any lot or product consisting of less than 10 similar units. Moreover, appeal service will not be furnished with respect to product that has been altered or has undergone any material change since the original service.

[42 FR 53921, Oct. 4, 1977, as amended at 45 FR 51762, Aug. 5, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 54.20 Request for appeal service.

Except as otherwise provided in § 54.19, a request for appeal service with respect to any product under the regulations may be made by any person who is financially interested in the product when he disagrees with the determination as to class, grade, other quality, or compliance of the product as shown by the markings on the product or its containers, or as stated in the applicable certificate. A request for appeal service shall be filed with the Chief, directly or through the official grader who performed the original service or the official in charge of the office of grading to which such grader was assigned at the time of the service, or through the nearest office of grading. The request shall state the reasons therefor and may be accompanied by a copy of any previous certificate or report, or any other information which the applicant may have received regarding the product at the time of the original service. Such request may be made orally (including by telephone) or in writing (including by telegram). If made orally, the person receiving the request may require that it be confirmed in writing. Requests for appeal service received through an official grader or an office of grading shall be transmitted promptly to the Chief for instructions.

§ 54.21 When request for appeal service may be withdrawn.

A request for appeal service may be withdrawn by the applicant at any time before the appeal service has been performed, upon payment of any expenses already incurred under the regulations by the Branch in connection therewith.

§ 54.22 Denial or withdrawal of appeal service.

A request for appeal service may be rejected or such service may be otherwise denied to or withdrawn from any person, without a hearing, in accordance with the procedure set forth in § 54.11(b), if it shall appear that the person or product involved is not eligible for appeal service under § 54.19, or that the identity of the product has been lost; or for any of the causes set forth in § 54.11(b). Appeal service may also be denied to, or withdrawn from, any person in any case under § 54.11(a), in accordance with the procedure set forth in said section.

§ 54.23 Who shall perform appeal service.

Appeal service for products shall be performed by official graders designated by the Chief or by the official in charge of an office of grading when so authorized by the Chief, and shall be conducted jointly by two official graders, or more when practicable. No official grader shall perform appeal service for any product for which he previously performed the service.

§ 54.24 Appeal certificates.

Immediately after appeal service has been performed for any products, a certificate designated as an "appeal certificate" shall be prepared, signed, and issued referring specifically to the original certificate and stating the class, grade, other quality, or compliance of the products as shown by the appeal service.

§ 54.25 Superseded certificates.

The appeal certificate shall supersede the original certificate which, thereupon, shall become null and void and shall not thereafter be deemed to show the class, grade, other quality, or compliance of the products described therein. However, the fees charged for the original service shall not be remitted. If the original and all copies of the superseded certificate are not delivered to the official with whom the request for appeal service is filed, the official graders issuing the appeal certificate shall forward notice of such issuance and of the cancellation of the original certificate to such persons as they may deem necessary to prevent fraudulent use of the superseded certificate.

§ 54.26 Application of other regulations to appeal service.

The regulations in §§ 54.1 through 54.18 and §§ 54.27 through 54.30 shall apply to appeal service except insofar as they are manifestly inapplicable.

CHARGES FOR SERVICE

§ 54.27 Fees and other charges for service.

Fees and other charges equal as nearly as may be to the cost of the services rendered shall be assessed and collected from applicants in accordance with the following provisions unless otherwise provided in the cooperative agreement under which the services are furnished, or as provided in § 54.6.

(a) *Fees Based on Hourly Rates.* Except as otherwise provided in this section, fees for service shall be based on the time required to render the service, calculated to the nearest 15-minute period, including the official grader's travel and certificate(s) preparation time in connection with the performance of service. A minimum charge of one-half hour shall be made for service pursuant to each request, notwithstanding that the time required to perform service may be less than 30 minutes. The base hourly rate shall be $26.40 per hour for 8 hours or less of work performed between the hours of 6 a.m. and 6 p.m., Monday through Friday, except on Federal legal holidays; $34.40 per hour for work performed in excess of 8 hours per day for each assigned official grader and for work performed before 6 a.m. and after 6 p.m., Monday through Friday, and any time Saturday or Sunday, except on Federal legal holidays; and $52.80 per hour for all work performed on Federal legal holidays.

(b) *Fees for service on commitment basis.* Minimum fees for service performed under a commitment agreement shall be on the basis of 8 hours per day, Monday through Friday, excluding Federal legal holidays occurring Monday through Friday on which no grading and certification services are performed, calculated at the hourly rates in accordance with paragraph (a) of this section. Hours worked on Saturdays, Sundays, Federal legal holidays, and in excess of 8 hours per day will be charged at the appropriate hourly rate in accordance with paragraph (a) of this section. The Agricultural Marketing Service reserves the right under such a commitment to use any grader assigned to the plant on a commitment basis to perform service for other applicants as provided in § 54.6(c), crediting the commitment applicant with the number of hours charged to the other applicant, provided the allowable credit hours, plus hours actually worked for the applicants, do not exceed 8 hours on any day, Monday through Friday, excluding all Federal legal holidays.

(c) *Travel charges.* When service is requested at a place so distant from an official grader's headquarters, or place of prior assignment on a circuitous routing that a total of one-half hour or more is required for the grader to travel to such place and back to the headquarters, or to the next place of assignment on a circuitous routing, the charge for such service shall include a mileage charge administratively determined by the Chief, and travel tolls, if applicable, for such travel prorated against all the applicants furnished the service involved on an equitable basis, or where the travel is made by public transportation (including hired vehicles), a fee equal to the actual cost thereof. However, the applicant will not be charged a new mileage rate without notification before the service is rendered.

(d) *Per diem charges.* When service is requested at a place away from the official grader's headquarters, the fee for such service shall include a per diem charge if the employee performing the service is paid per diem in accordance with existing travel regulations. Per diem charges to applicants will cover the same period of time for which the grader receives per diem reimbursement. The per diem rate will be administratively determined by the Chief. However, the applicant will not be charged a new per diem rate without notification before the service is rendered.

(e) *Fees for appeal service.* Fees for appeal service shall be determined on the basis of the time, of two official graders, required to render the service, calculated to the nearest fifteen-minute period, including the time required for the preparation of certificates and travel of such graders in connection with the performance of the service, at the applicable hourly rate prescribed in paragraph (a) of this section, plus any travel charges and per diem for such graders ordinarily chargeable under paragraphs (c) and (d) of this section: *Provided,* That when on appeal it is found that there was error in the original determination equal to or exceeding ten percent of the total number of similar units of the products involved, no charge will be made for the appeal service unless a special agreement therefor was made with the applicant in advance.

(f) *Fees for extra copies of certificates.* In addition to copies of certificates furnished under § 54.14, any financially interested person may obtain not to exceed three copies of any such certificate within one year from its date of issuance upon payment of a fee of $1.00, and not to exceed three copies of any such certificate at any time thereafter, while a copy of such certificate is on file in the Department, upon payment of a fee of $5.00.

(g) *Other charges.* When costs, other than costs specified in paragraphs (a), (b), (c), (d), (e), and (f) of this section, are involved in providing the services, the applicant will be charged for these costs. The amount of these charges will be determined administratively by the Chief. However, the applicant will not be charged for such cost without notification before the service is rendered of the charge for such item of expense.

[42 FR 53921, Oct. 4, 1977. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 44704, Oct. 12, 1982; 49 FR 23333, June 6, 1984; 50 FR 27573, July 5, 1985]

§ 54.28 Payment of fees and other charges.

Fees and other charges for service shall be paid in accordance with the following provisions unless otherwise provided in the cooperative agreement under which the service is furnished. Upon receipt of billing for fees and other charges for service the applicant shall remit by check, draft, or money order, made payable to the Agricultural Marketing Service, USDA, payment for the service in accordance with directions on the billing, and such fees and charges shall be paid in advance if required by the official grader or other authorized official.

MISCELLANEOUS

§ 54.29 Identification.

All official graders and supervisors of grading shall have their Agricultural Marketing Service identification cards in their possession at all times while they are performing any function under the regulations and shall identify themselves by such cards upon request.

§ 54.30 Errors in service.

When an official grader, supervisor of grading, or other responsible employee of the Branch has evidence of misgrading, or of incorrect certification or other incorrect determination or identification as to the class, grade, other quality, or compliance of a product, he shall report the matter to his immediate supervisor. The supervisor of grading will investigate the matter and, if he deems advisable, will report it to the owner or his agent. The supervisor of grading shall take appropriate action to correct errors found in the determination or identification of class, grade or other quality or compliance of products if the products are still owned by the person who owned them when, and are still located at the establishment where, the incorrect service was rendered and if such service was rendered by a grader under the jurisdiction of such supervisor, and the supervisor of grading shall take adequate measures to prevent the recurrence of such errors.

§ 54.31 Uniforms.

All meat graders and their supervisory personnel are required to wear clean, white, well-maintained outer frocks while performing any function under these regulations involving contact with or the handling of any meat or meat product.

[45 FR 19214, Mar. 25, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

Subpart B—Standards

CARCASS BEEF

§ 54.102 Scope.

These standards for grades of beef are written primarily in terms of carcasses. However, they also are applicable to the grading of sides. To simplify phrasing of the standards, the words "carcass" and "carcasses" are used to also mean "side" or "sides."

[45 FR 51762, Aug. 5, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 54.103 Classes of beef carcasses.

(a) Class determination of beef carcasses is based on evidences of maturity and apparent sex condition at the time of slaughter. The classes of beef carcasses are steers, bullocks, bulls, heifers, and cows. Carcasses from males—steers, bullocks, and bulls—are distinguished from carcasses from females—heifers and cows—as follows:

(1) Steer, bullock, and bull carcasses have a "pizzle muscle" (attachment of the penis) and related "pizzle eye" adjacent to the posterior end of the aitchbone.

(2) Steer, bullock, and bull carcasses have, if present, rather rough, irregular fat in the region of the cod. In heifer and cow carcasses, the fat in this region, if present, is much smoother.

(3) In steer, bullock, and bull carcasses, the area of lean exposed immediately ventral to the aitchbone is much smaller than in heifer and cow carcasses.

(b) Steer, bullock, and bull carcasses are distinguished by the following:

(1) In steer carcasses, the "pizzle muscle" is relatively small, light red in color, and fine in texture and the related "pizzle eye" is relatively small.

(2) In bullock and bull carcasses, the "pizzle muscle" is relatively large, dark red in color, and coarse in texture and the related "pizzle eye" is relatively large.

(3) Bullock and bull carcasses usually have a noticeable crest.

(4) Bullock and bull carcasses also usually have a noticeably developed small round muscle adjacent to the hipbone commonly referred to as the "jump muscle." However, in carcasses with a considerable amount of external fat, the development of this muscle may be obscured.

(5) Although the development of the secondary sex characteristics is given primary consideration in distinguishing steer carcasses from bullock or bull carcasses, this differentiation is also facilitated by consideration of the color and texture of the lean. In bullock and bull carcasses, the lean is frequently at least dark red in color with a dull, "muddy" appearance—and in some cases it may have an iridescent sheen. Also, it frequently has an "open" texture.

(6) The distinction between bullock and bull carcasses is based solely on their evidences of skeletal maturity. Carcasses with the maximum maturity permitted in the bullock class have slightly red and slightly soft chine bones, and the cartilages on the ends of the thoracic vertebrae have some evidence of ossification; the sacral vertebrae are completely fused; the cartilages on the ends of the lumbar vertebrae are nearly completely ossified; and the rib bones are slightly wide and slightly flat. Bull carcasses have evidences of more advanced maturity.

(c) Heifer and cow carcasses are distinguished by the following:

(1) Heifer carcasses have a relatively small pelvic cavity and a slightly curved aitchbone. In cow carcasses, the pelvic cavity is relatively large and the aitchbone is nearly straight.

(2) In heifer carcasses, the udder usually will be present. In cow carcasses, the udder usually will have been removed. However, neither of these are requirements.

[42 FR 53921, Oct. 4, 1977, as amended at 45 FR 51762, Aug. 5, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 54.104 Application of standards for grades of carcass beef.

(a) The grade of a steer, heifer, cow, or bullock carcass consists of separate evaluations of two general considerations:

(1) The indicated yield of closely trimmed (½ inch fat or less), boneless retail cuts expected to be derived from the major wholesale cuts (round, sirloin, short loin, rib, and square-cut chuck) of a carcass, herein referred to as the "yield grade," and (2) characteristics of the meat which predict the palatability of the lean, herein referred to as the "quality grade." The grade of a bull carcass consists of the yield grade only. When officially graded, the grade of a steer, heifer, cow, or bullock carcass consists of both the quality grade and the yield grade. The yield grade designation may be removed from officially graded beef carcasses, sides, quarters, wholesale cuts, or combinations of wholesale cuts on which the external fat (natural or trimmed) does not exceed ¾ inch in thickness. For purposes of these regulations, wholesale cuts, or combinations thereof, which can qualify for yield grade designation removal are: Round, sirloin, short loin, rib, square-cut chuck, shank, brisket, plate, and flank. The yield grade designation may be removed from all other cuts without trimming of external fat. In instances where removal of the yield grade designation is permitted, the USDA grade may consist of the quality grade designation only.

(b) The carcass beef grade standards are written so that the quality grade and yield grade standards are contained in separate sections. The quality grade section is divided further into two separate sections applicable to carcasses from: (1) Steers, heifers, and cows, and (2) bullocks. Eight quality grade designations—Prime, Choice, Good, Standard, Commercial, Utility, Cutter, and Canner—are applicable to steer and heifer carcasses. Except for Prime, the same designations apply to cow carcasses. The quality grade designations for bullock carcasses are Prime, Choice, Good, Standard, and Utility. There are five yield grades applicable to all classes of beef, denoted by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability.

(c) When officially graded, bullock and bull beef will be further identified for its sex condition; steer, heifer, and cow beef will not be so identified. The designated grades of bullock beef are not necessarily comparable in quality or cutability with a similarly designated grade of beef from steers, heifers, or cows. Neither is the cutability of a designated yield grade of bull beef necessarily comparable with a similarly designated yield grade of steer, heifer, cow, or bullock beef.

(d) The Department uses photographs and other objective aids in the correct interpretation and application of the standards.

(e) To determine the grade of a carcass, it must be split down the back into two sides and one or both sides must be partially separated into a hindquarter and forequarter by cutting it with a saw and knife insofar as practicable, as follows: A saw cut perpendicular to both the long axis and split surface of the vertebral column is made across the 12th thoracic vertebra at a point which leaves not more than one-half of this vertebra on the hindquarters. The knife cut across the ribeye muscle starts—or terminates—opposite the above-described saw cut. From that point it extends across the ribeye muscle perpendicular to the outside skin surface of the carcass at an angle toward the hindquarter which is slightly greater (more nearly horizontal) than the angle made by the 13th rib with the vertebral column of the hindquarter posterior to that point. As a result of this cut, the outer end of the cut surface of the ribeye muscle is closer to the 12th rib than is the end next to the chine bone. Beyond the ribeye, the knife cut shall continue between the 12th and 13th ribs to a point which will adequately expose the distribution of fat and lean in this area. The knife cut may be made prior to or following the saw cut but must be smooth and even, such as would result from a single stroke of a very sharp knife.

(f) Other methods of ribbing may prevent an accurate evaluation of the grade determining characteristics. Therefore, carcasses ribbed by other methods will be eligible for grading only if an accurate grade determination can be made by the official grader under the standards.

(g) Beveling of the fat over the ribeye, application of pressure, or any other influences which may alter the characteristics of the ribeye or the thickness of fat over the ribeye prevent an accurate grade determination. Therefore, carcasses subjected to such influences shall not be eligible for a grade determination, and the presentation of such carcasses for an official grade determination shall be considered a fraudulent or deceptive practice in connection with the services requested for such carcasses. Carcasses that have had external fat removed in trimming for Federal meat inspection compliance may be graded only if the official grader determines that an accurate grade determination can be made. Although entire carcasses with more than minor amounts of lean removed from the major wholesale cuts (round, sirloin, short loin, rib, or square-cut chuck) shall not be eligible for a grade determination, the remaining portions of these carcasses which are unaffected by the removal of lean shall remain eligible for a grade determination provided a cross section at the 12th-13th rib is available and an accurate grade determination may be made.

(h) When both sides of a carcass have been ribbed prior to presentation for grading and the characteristics of the two ribeyes (area, marbling, color, texture, and firmness) would justify different quality and/or yield grades, the final grade of the carcass shall reflect the "highest" of each of these grades as determined from either side.

(i) To meet the demand of export trade or changing trade practices, grading of carcasses ribbed other than between the 12th and 13th ribs may be approved by the Director. In such cases, grading shall be based on the requirements specified in these standards and shall be consistent with the normal development of grade characteristics in various parts of a carcass of the quality level involved. When an exception is granted for export trade, such carcasses shall be identified with the word "EXPORT" in such a manner that will clearly distinguish them from other officially graded beef.

(j) Carcasses qualifying for any particular grade may vary with respect to their relative development of the various grade factors. There will be carcasses that qualify for a particular grade, some of whose characteristics may be more nearly typical of another grade. For example, in comparison with the descriptions of maturity contained in the standards, a particular carcass might have a greater relative degree of ossification of the cartilages on the ends of its lumbar vertebrae than its other eivdences of maturity. In such instances, the maturity of the carcass is not determined solely by the ossification of the lumbar vertebrae but neither is this ignored. All of the maturity-indicating factors are considered. In making any composite evaluation of two or more factors, it must be remembered that they seldom are developed to the same degree. Because it is impractical to describe the nearly limitless number of recognizable combinations of characteristics, the standards for each quality grade and yield grade describe only beef which has a relatively similar degree of development of the various factors affecting its quality and yield. Also, the quality grade and yield grade standards each describe beef which is representative of the lower limits of each quality grade and yield grade.

(k) For steer, heifer, and cow beef, quality of the lean is evaluated by considering its marbling and firmness as observed in a cut surface in relation to carcass evidences of maturity. The maturity of the carcass is determined by evaluating the size, shape, and ossification of the bones and cartilages—especially the split chine bones—and the color and texture of the lean flesh. In the split chine bones, ossification changes occur at an earlier stage of maturity in the posterior portion of the vertebral column (sacral vertebrae) and at progressively later stages of maturity in the lumbar and thoracic vertebrae. The ossification changes that occur in the cartilages on the ends of the split thoracic vertebrae are especially useful in evaluating maturity and these vertebrae are referred to frequently in the standards. Unless otherwise specified in the standards, whenever reference is made to the ossification of cartilages on the thoracic vertebrae, this shall be construed to refer to the cartilages attached to the thoracic vertebrae at the posterior end of the forequarter. The size and shape of the rib bones also are important considerations in evaluating differences in maturity. In the very youngest carcasses considered as "beef," the cartilages on the ends of the chine bones show no ossification, cartilage is evident on all of the vertebrae of the spinal column, and the sacral vertebrae show distinct separation. In addition, the split vertebrae usually are soft and porous and very red in color. In such carcasses, the rib bones have only a slight tendency toward flatness. In progressively more mature carcasses, ossification changes become evident first in the bones and cartilages of the sacral vertebrae, then in the lumbar vertebrae, and still later in the thoracic vertebrae. In beef which is very advanced in maturity, all the split vertebrae will be devoid of red color, very hard and flinty, and the cartilages on the ends of all the vertebrae will be entirely ossified. Likewise, with advancing maturity, the rib bones will become progressively wider and flatter until in very mature beef the ribs will be very wide and flat.

(l) In steer, heifer, and cow beef, the color and texture of the lean flesh also undergo progressive changes with advancing maturity. In the very youngest carcasses considered as "beef," the lean flesh will be very fine in texture and light grayish red in color. In progressively more mature carcasses, the texture of the lean will become progressively coarser and the color of the lean will become progressively darker red. In very mature beef, the lean flesh will be very coarse in texture and very dark red in color. Since color of lean also is affected by variations in quality, references to color of lean in the standards for a given degree of maturity vary slightly with different levels of quality. In determining the maturity of a carcass in which the skeletal evidences of maturity are different from those indicated by the color and texture of the lean, slightly more emphasis is placed on the characteristics of the bones and cartilages than on the characteristics of the lean. In no case can the overall maturity of the carcass be considered more than one full maturity group different from that indicated by its bones and cartilages.

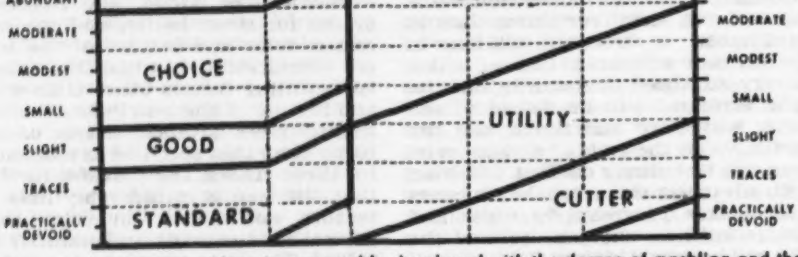
(m) The preceding two paragraphs also are applicable to the determination of quality in bullock beef except for carcasses having darker colors of lean than specified in the standards for the quality level for which they would otherwise qualify. In such carcasses, maturity will be evaluated on the basis of skeletal characteristics only, and the final grade will be determined in accordance with the procedures specified in the standards for grading "dark-cutting beef."

(n) In determining compliance with the maximum maturity limits for the Prime, Choice, Good, and Standard grades for steer, heifer, and cow carcasses, color and texture of the lean are considered only when the maturity-indicating factors other than color and texture of the lean indicate only a slightly more advanced degree of maturity than that specified as maximum for these grades, and provided further that the lean is considerably finer in texture and lighter in color than normal for the grade and maturity involved. The same principle, in reverse, is likewise applicable to determining compliance with the minimum maturity limits of the Commercial grade.

(o) These standards are applicable to the grading of beef throughout the full range of maturity within which cattle are marketed. However, in steer, heifer, and cow carcasses, the range of maturity permitted within each of the

grades varies considerably. The Prime, Choice, Good, and Standard grades are restricted to beef from young cattle; the Commercial grade is restricted to beef from cattle too mature for Prime, Choice, Good, and Standard, and the Utility, Cutter, and Canner grades may include beef from animals of all ages. By definition, bullock carcasses are restricted to those whose evidences of maturity do not exceed those specified for the juncture of the two youngest maturity groups referenced in the standards for steer, heifer, and cow carcasses. Except for the youngest maturity group, within any specified grade, the requirements for marbling increase progressively with evidences of advancing maturity. In the youngest maturity group, the marbling requirements do not increase progressively with evidences of advancing maturity. For each grade, the firmness requirements are different for each maturity group, but, within each maturity group, the firmness requirements do not increase progressively with evidences of advancing maturity. Also, regardless of the extent to which marbling may exceed the minimum of a grade, a carcass must meet the minimum firmness requirements for its maturity to qualify for that grade. To facilitate the application of these principles, the standards recognize five different maturity groups and seven different degrees of marbling. The five maturity groups are identified in Figure 1 as A, B, C, D, and E in order of increasing maturity. The limits of these five maturity groups are specified in the grade descriptions for steer, heifer, and cow carcasses. The A maturity portion of the figure is the only portion applicable to bullock carcasses. The degrees of marbling referenced in the specifications, in order of descending quantity are: Slightly abundant, moderate, modest, small, slight, traces, and practically devoid. However, for carcass evaluation programs and other purposes, three higher degrees are recognized—moderately abundant, abundant, and very abundant. Illustrations of the lower limits of nine of these ten degrees of marbling are available from the Department of Agriculture.

RELATIONSHIP BETWEEN MARBLING, MATURITY, AND CARCASS QUALITY GRADE *



*Assumes that firmness of lean is comparably developed with the degree of marbling and that the carcass is not a "dark cutter."

**Maturity increases from left to right (A through E).

***The A maturity portion of the Figure is the only portion applicable to bullock carcasses.

FIGURE 1.

(p) The relationship between marbling, maturity and quality grade is shown in Figure 1. This figure assumes that the firmness of lean is comparably developed with the degree of marbling and that the carcass is not a "dark cutter." From this figure it can be seen, for instance, that the minimum marbling requirement for Choice varies from a minimum small amount for carcasses throughout the youngest maturity group to a maximum small amount for carcasses having the maximum maturity permitted in Choice. Likewise, in the Commercial grade the minimum marbling requirement varies from a minimum small amount in beef with the minimum maturity permitted to a maximum moderate amount in beef from very mature animals. The marbling and other lean flesh characteristics specified for the various grades are based on their appearance in the ribeye muscle of properly chilled carcasses that are ribbed between the 12th and 13th ribs. For carcass evaluation programs and other purposes, in the Prime and Commercial grades, each additional degree of marbling (up to three) greater than specified as minimum for each of these grades is equal to one-third of a grade of higher quality.

(q) References to color of lean in the standards for steer, heifer, and cow beef involve only colors associated with changes in maturity. They are not intended to apply to colors of lean associated with so-called "dark-cutting beef." Dark-cutting beef is believed to be the result of a reduced sugar content of the lean at the time of slaughter. As a result, this condition does not have the same significance in grading as do the darker shades of red associated with advancing maturity. The dark color of the lean associated with "dark-cutting beef" is present in varying degrees from that which is barely evident to so-called "black cutters" in which the lean is actually nearly black in color and usually has a "gummy" texture. Although there is little or no evidence which indicates that the "dark-cutting" condition has any adverse effect on palatability, it is considered in grading because of its effect on acceptability and value. Depending on the degree to which this characteristic is developed, the final grade of carcasses which otherwise would qualify for the Prime, Choice, or Good grades may be reduced as much as one full grade. In beef otherwise eligible for the Standard or Commercial grade, the final grade may be reduced as much as one-half of a grade. In the Utility, Cutter, and Canner grades, this condition is not considered.

(r) The yield grade of a beef carcass is determined by considering four characteristics: (1) The amount of external fat, (2) the amount of kidney, pelvic, and heart fat, (3) the area of the ribeye muscle, and (4) the carcass weight.

(s) The amount of external fat on a carcass is evaluated in terms of the thickness of this fat over the ribeye muscle, measured perpendicular to the outside surface at a point three-fourths of the length of the ribeye from its chine bone end. This measurement may be adjusted, as necessary, to reflect unusual amounts of fat on other parts of the carcass. In determining the amount of this adjustment, if any, particular attention is given to the amount of fat in such areas as the brisket, plate, flank, cod or udder inside round, rump, and hips in relation to the actual thickness of fat over the ribeye. Thus, in a carcass which is fatter over other areas than is indicated by the fat measurement over the ribeye, the measurement is adjusted upward. Conversely, in a carcass which has less fat over the other areas than is indicated by the fat measurement over the ribeye, the measurement is adjusted downward. In many carcasses no such adjustment is necessary; however, an adjustment in the thickness of fat measurement of one-tenth or two-tenths of an inch is not uncommon. In some carcasses a greater adjustment may be necessary. As the amount of external fat increases, the percent of retail cuts decreases—each one-tenth inch change in adjusted fat thickness over the ribeye changes the yield grade by 25 percent of a yield grade.

(t) The amount of kidney, pelvic, and heart fat considered in determining the yield grade includes the kidney knob (kidney and surrounding fat), the lumbar and pelvic fat in the loin and round, and the heart fat in the chuck and brisket area which are removed in making closely trimmed retail cuts. The amount of these fats is evaluated subjectively and expressed as a percent of the carcass weight. As the amount of kidney, pelvic, and heart fat increases, the percent of retail cuts decreases—a change of 1 percent of the carcass weight in these fats changes the yield grade by 20 percent of a yield grade.

(u) The area of the ribeye is determined where this muscle is exposed by ribbing. This area usually is estimated subjectively; however, it may be measured. Area of ribeye measurements may be made by means of a grid calibrated in tenths of a square inch or by other devices designated by the Agricultural Marketing Service of the U.S. Department of Agriculture.[1] An increase in the area of ribeye increases the percent of retail cuts—a change of 1 square inch in area of ribeye changes the yield grade by approximately 30 percent of a yield grade.

(v) Hot carcass weight (or chilled carcass weight x 102 percent) is used in determining the yield grade. As carcass weight increases, the percent of retail cuts decreases—a change of 100 pounds in hot carcass weight changes the yield grade by approximately 40 percent of a yield grade.

(w) The standards include a mathematical equation for determining yield grade. This grade is expressed as a whole number; any fractional part of a designation is always dropped. For example, if the computation results in a designation of 3.9, the final grade is 3—it is not rounded to 4.

(x) The yield grade standards for each of the first four yield grades list characteristics of two carcasses of two different weights together with descriptions of the usual fat deposition pattern on various areas of the carcass. These descriptions are not specific requirements—they are included only as illustrations of carcasses which are near the borderlines between groups. For example, the characteristics listed for Yield Grade 1 represent carcasses which are near the borderline of Yield Grades 1 and 2.

These descriptions facilitate the subjective determination of the yield grade without making detailed measurements and computations. The yield grade for most beef carcasses can be determined accurately on the basis of a visual appraisal.

[42 FR 53921, Oct. 4, 1977, as amended at 45 FR 51762, Aug. 5, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 54.105 Specifications for official United States standards for grades of carcass beef (yield).

(a) The yield grade of a beef carcass is determined on the basis of the following equation: Yield grade—2.50+(2.50 x adjusted fat thickness, inches)+(0.20 x percent kidney, pelvic, and heart fat)+(0.0038 x hot carcass weight, pounds)—(0.32 x area ribeye, square inches).

(b) The following descriptions provide a guide to the characteristics of carcasses in each yield grade to aid in determining yield grades subjectively.

(1) *Yield Grade 1.* (i) A carcass in Yield Grade 1 usually has only a thin layer of external fat over the ribs, loins, rumps, and clods and slight deposits of fat in the flanks and cod or udder. There is usually a very thin layer of fat over the outside of the rounds and over the tops of the shoulders and necks. Muscles are usually visible through the fat in many areas of the carcass.

(ii) A 500-pound carcass of this yield grade which is near the borderline of Yield Grades 1 and 2 might have three-tenths inch of fat over the ribeye, 11.5 square inches of ribeye, and 2.5 percent of its weight in kidney, pelvic, and heart fat.

(iii) An 800-pound carcass of this yield grade which is near the borderline of Yield Grades 1 and 2 might have four-tenths inch of fat over the ribeye, 16.0 square inches of ribeye, and 2.5 percent of its weight in kidney, pelvic, and heart fat.

(2) *Yield Grade 2.* (i) A carcass in Yield Grade 2 usually is nearly completely covered with fat but the lean is plainly visible through the fat over the outside of the rounds, the tops of

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[1] Information concerning such devices may be obtained from the Agricultural Marketing Service, Meat Quality Division.

the shoulders, and the necks. There usually is a slightly thin layer of fat over the loins, ribs, and inside rounds and the fat over the rumps, hips, and clods usually is slightly thick. There are usually small deposits of fat in the flanks and cod or udder.

(ii) A 500-pound carcass of this yield grade which is near the borderline of Yield Grades 2 and 3 might have five-tenths inch of fat over the ribeye, 10.5 square inches of ribeye, and 3.5 percent of its weight in kidney, pelvic, and heart fat.

(iii) An 800-pound carcass of this yield grade which is near the borderline of Yield Grades 2 and 3 might have six-tenths inch of fat over the ribeye, 15.0 square inches of ribeye, and 3.5 percent of its weight in kidney, pelvic, and heart fat.

(3) *Yield Grade 3.* (i) A carcass in Yield Grade 3 usually is completely covered with fat and the lean usually is visible through the fat only on the necks and the lower part of the outside of the rounds. There usually is a slightly thick layer of fat over the loins, ribs, and inside rounds and the fat over the rumps, hips, and clods usually is moderately thick. There usually are slightly large deposits of fat in the flanks and cod or udder.

(ii) A 500-pound carcass of this yield grade which is near the borderline of Yield Grades 3 and 4 might have seven-tenths inch of fat over the ribeye, 9.5 square inches of ribeye, and 4.0 percent of its weight in kidney, pelvic, and heart fat.

(iii) An 800-pound carcass of this yield grade which is near the borderline of Yield Grades 3 and 4 might have eight-tenths inch of fat over the ribeye, 14.0 square inches of ribeye, 4.5 percent of its weight in kidney, pelvic, and heart fat.

(4) *Yield Grade 4.* (i) A carcass in Yield Grade 4 usually is completely covered with fat. The only muscles usually visible are those on the shanks and over the outside of the plates and flanks. There usually is a moderately thick layer of fat over the loins, ribs, and inside rounds and the fat over the rumps, hips, and clods usually is thick. There usually are large deposits of fat in the flanks and cod or udder.

(ii) A 500-pound carcass of this yield grade which is near the borderline of Yield Grades 4 and 5 might have one inch of fat over the ribeye, 9.0 square inches of ribeye, and 4.5 percent of its carcass weight in kidney, pelvic, and heart fat.

(iii) A 800-pound carcass of this yield grade which is near the borderline of Yield Grades 4 and 5 might have one and one-tenth inch of fat over the ribeye, 13.5 square inches of ribeye, and 5.0 percent of its weight in kidney, pelvic and heart fat.

(5) *Yield Grade 5.* A carcass in Yield Grade 5 usually has more fat on all of the various parts, a smaller area of ribeye, and more kidney, pelvic, and heart fat than a carcass in Yield Grade 4.

[42 FR 53921, Oct. 4, 1977, as amended at 45 FR 51763, Aug. 5, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 54.106 Specifications for official United States standards for grades of carcass beef (quality-steer, heifer, cow).

(a) *Prime.* (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Prime grade vary in their other indications of quality as evidenced in the ribeye muscle. Minimum quality characteristics are described for two maturity groups, which cover the entire range of maturity permitted in the Prime grade.

(2) Carcasses in the younger group range from the youngest that are eligible for the beef class to those at the juncture of the two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is light red in color and is fine in texture. In carcasses throughout the range of maturity included in this group, a minimum slightly abundant amount of marbling is required (see Figure 1) and the ribeye muscle is moderately firm.

(3) Carcasses in the older group range from those described above as representative of the juncture of the two groups to those at the maximum maturity permitted in the Prime grade, which have chine bones tinged with red and cartilages on the ends of the thoracic vertebrae that are partially ossified. In addition, the sacral vertebrae are completely fused, the cartilages on the ends of the lumbar vertebrae are completely ossified, and the cut surface of the lean tends to be fine in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from minimum slightly abundant to maximum slightly abundant (see Figure 1) and the ribeye muscle is firm.

(4) Beef produced from cows is not eligible for the Prime grade.

(b) *Choice.* (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Choice grade vary in their other indications of quality as evidenced in the ribeye muscle. Minimum quality characteristics are described for two maturity groups, which cover the entire range of maturity permitted in the Choice grade.

(2) Carcasses in the younger group range from the youngest that are eligible for the beef class to those at the juncture of the two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is moderately light red in color and is fine in texture. In carcasses throughout the range of maturity included in this group, a minimum small amount of marbling is required (see Figure 1) and the ribeye muscle may be slightly soft.

(3) Carcasses in the older group range from those described above as representative of the juncture of the two groups to those at the maximum maturity permitted in the Choice grade, which have chine bones tinged with red and cartilages on the ends of the thoracic vertebrae are partially ossified. In addition, the sacral vertebrae are completely fused, the cartilages on the ends of the lumbar vertebrae are completely ossified, and the cut surface of the lean tends to be fine in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum small amount to a maximum small amount (see Figure 1) and the ribeye muscle is slightly firm.

(c) *Good.* (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Good grade vary in their other indications of quality as evidenced in the ribeye muscle. Minimum quality characteristics are described for two maturity groups, which cover the entire range of maturity permitted in the Good grade.

(2) Carcasses in the younger group range from the youngest that are eligible for the beef class to those at the juncture of the two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is slightly light red in color and is fine in texture. In carcasses throughout the range of maturity included in this group, a minimum slight amount of marbling is required (see Figure 1) and the ribeye may be moderately soft.

(3) Carcasses in the older group range from those described above as representative of the juncture of the two groups to those at the maximum maturity permitted in the Good grade, which have chine bones tinged with red and cartilages on the ends of the thoracic vertebrae that are partially ossified. In addition, the sacral vertebrae are completely fused, the cartilages on the ends of the lumbar vertebrae are completely ossified, and the cut surface of the lean tends to be fine in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum slight amount

to a maximum slight amount (see Figure 1) and the ribeye muscle may be slightly soft.

(d) *Standard.* (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the standard grade vary in their other indications of quality as evidenced in the ribeye muscle. Minimum quality characteristics are described for two maturity groups which cover the entire range of maturity permitted in the Standard grade.

(2) Carcasses in the younger group range from the youngest that are eligible for the beef class to those at the juncture of the two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is slightly dark red in color and is fine in texture. In carcasses throughout the range of maturity included in this group, a minimum practically devoid amount of marbling is required (see Figure 1) and the ribeye muscle may be soft.

(3) Carcasses in the older group range from those described above as representative of the juncture of the two groups to those at the maximum maturity permitted in the Standard grade, which have chine bones tinged with red and cartilages on the ends of the thoracic vertebrae that are partially ossified. In addition, the sacral vertebrae are completely fused, the cartilages on the ends of the lumbar vertebrae are completely ossified, and the cut surface of the lean is moderately fine in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from minimum practically devoid to maximum practically devoid (see Figure 1) and the ribeye muscle may be moderately soft.

(e) *Commercial.* (1) Commercial grade beef carcasses are restricted to those with evidences of more advanced maturity than permitted in the Standard grade. Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Commercial grade vary in their other indications of quality as evidenced in the ribeye muscle. Minimum quality characteristics are described for the youngest and the most mature of these groups. The requirements for the intermediate group are determined by interpolation between the requirements indicated for the two groups described.

(2) Carcasses in the youngest group permitted in the Commercial grade range from those with indications of maturity barely more advanced than described as maximum for the Standard grade to those with moderately hard, rather white chine bones and with cartilages on the ends of the thoracic vertebrae that show considerable ossification but the outlines of the cartilages are still plainly visible. In addition, the rib bones are moderately wide and flat and the ribeye muscle is moderately dark red and slightly coarse in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum small amount to a maximum small amount (see Figure 1) and the ribeye muscle is slightly firm.

(3) The youngest carcasses in the most mature group included in the Commercial grade have hard, white chine bones and the outlines of the cartilages on the ends of the thoracic vertebrae are barely visible, the rib bones are wide and flat, and the ribeye muscle is dark red and coarse in texture. The range in maturity in this group extends to include carcasses from the oldest animals marketed. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum moderate amount to a maximum moderate amount (see Figure 1) and the ribeye muscle is firm.

(f) *Utility.* (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Utility grade vary in their other indications of quality as evidenced in the ribeye muscle. Carcasses within the full range of maturity classified as beef are included in the Utility grade. Thus, five maturity groups are recognized. Minimum quality requirements are described for three of these groups—the first or youngest, the third or intermediate, and the fifth or the most mature. The requirements for the second and fourth maturity groups are determined by interpolation between the requirements described for their adjoining groups.

(2) Carcasses in the first or youngest maturity group range from the youngest that are eligible for the beef class to those at the juncture of the first two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly flat and the ribeye muscle is slightly dark red in color and fine in texture. In carcasses throughout the range of maturity included in this group, the ribeye muscle is devoid of marbling and may be soft and slightly watery.

(3) Carcasses in the third or intermediate maturity group range from those with indications of maturity barely more advanced than described as maximum for the Standard grade to those with moderately hard, rather white chine bones and with cartilages on the ends of the thoracic vertebrae that show considerable ossification but the outlines of the cartilages are still plainly visible. In addition, the rib bones are moderately wide and flat and the ribeye muscle is dark red in color and slightly coarse in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from minimum practically devoid to maximum practically devoid (see Figure 1) and the ribeye muscle may be moderately soft.

(4) The youngest carcasses in the fifth or oldest maturity group have hard, white chine bones and the outlines of the cartilages on the ends of the thoracic vertebrae are barely visible, the rib bones are wide and flat, and the ribeye muscle is very dark red in color and coarse in texture. The range in maturity in this group extends to include carcasses from the oldest animals produced. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum slight amount to a maximum slight amount (see Figure 1) and the ribeye muscle is slightly firm.

(g) *Cutter.* (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Cutter grade vary in their other indications of quality as evidenced in the ribeye muscle. Carcasses within the full range of maturity classified as beef are included in the Cutter grade. Thus, five maturity groups are recognized. Minimum quality requirements are described for three of these groups—the first or youngest, the third or intermediate, and the fifth or the most mature. The requirements for the second and fourth maturity groups are determined by interpolation between the requirements described for their adjoining groups.

(2) Carcasses in the first or youngest maturity group range from the youngest that are eligible for the beef class to those at the juncture of the first two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is slightly dark red in color and fine in texture. In carcasses throughout the range of maturity included in this group, the ribeye muscle is devoid of marbling and may be very soft and watery.

(3) Carcasses in the third or intermediate maturity group range from those with indications of maturity barely more advanced than described as maximum for the Standard grade to those with moderately hard, rather white chine bones and with cartilages on the ends of the thoracic vertebrae that show considerable ossification but the outlines of the cartilages are still plainly visible. In addition, the rib bones are moderately wide and flat and the ribeye muscle is dark red in color and slightly coarse in texture. In

carcasses throughout the range of maturity included in this group, the ribeye muscle is devoid of marbling and may be soft and watery.

(4) Carcasses in the fifth or oldest maturity group have hard white chine bones and the outlines of the cartilages on the ends of the thoracic vertebrae are barely visible, the rib bones are wide and flat, and the ribeye muscle is very dark red in color and coarse in texture. The range in maturity in this group extends to include carcasses from the oldest animals produced. The minimum degree of marbling required increases with advancing maturity throughout this group from minimum practically devoid to maximum practically devoid (see Figure 1) and the ribeye muscle is soft and slightly watery.

(h) *Canner.* The Canner grade includes only those carcasses that are inferior to the minimum requirements specified for the Cutter grade.

[42 FR 53921, Oct. 4, 1977, as amended at 45 FR 51763, Aug. 5, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 54.107 Specifications for official United States standards for grades of carcass beef (Quality—Bullock).

(a) *Prime.* For the Prime grade, the minimum degree of marbling required is a minimum slightly abundant amount for carcasses throughout the range of maturity permitted in the bullock class. The ribeye muscle is moderately firm and, in carcasses having the maximum maturity for this class, the ribeye is light red in color.

(b) *Choice.* For the Choice grade, the minimum degree of marbling required is a minimum small amount for carcasses throughout the range of maturity permitted in the bullock class. The ribeye muscle may be slightly soft and, in carcasses having the maximum maturity for this class, the ribeye is moderately light red in color.

(c) *Good.* For the Good grade, the minimum degree of marbling required is a minimum slight amount for carcasses throughout the range of maturity permitted in the bullock class. The ribeye muscle may be moderately soft and, in carcasses having the maximum maturity for this class, the ribeye is slightly light red in color.

(d) *Standard.* For the Standard grade, the minimum degree of marbling required is a minimum practically devoid amount for carcasses throughout the range of maturity permitted in the bullock class. The ribeye muscle may be soft and, in carcasses having the maximum maturity for this class, the ribeye is slightly dark red in color.

(e) *Utility.* The Utility grade includes only those carcasses that do not meet the minimum requirements specified for the Standard grade.

VEAL AND CALF CARCASSES

§ 54.112 Scope.

These standards for grades of veal and calf are written primarily in terms of carcasses. However, they also are applicable to the grading of sides. To simplify the phrasing of the standards, the words "carcass" and "carcasses" are used also to mean "side" or "sides."

[45 FR 51763, Aug. 5, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 54.113 Differentiation between veal, calf, and beef carcasses.

Differentiation between veal, calf, and beef carcasses is made primarily on the basis of the color of the lean, although such factors as texture of the lean; character of the fat; color, shape, size, and ossification of the bones and cartilages; and the general contour of the carcass are also given consideration. Typical veal carcasses have a grayish pink color of lean that is very smooth and velvety in texture and they also have a slightly soft, pliable character of fat and marrow, and very red rib bones. By contrast, typical calf carcasses have a grayish red color of lean, a flakier type of fat, and somewhat wider rib bones with less pronounced evidences of red color. Calf carcasses with maximum maturity for their class have lean flesh that is usually not more than moderately red in color, their rib bones usually have a small amount of red and only a slight tendency toward flatness, and such carcasses are not noticeably "spready" or "barrelly" in contour. Such carcasses, when split, have cartilages on the ends of the chine bones that are entirely cartilaginous, there is cartilage in evidence on all vertebrae of the spinal column, and sacral vertebrae show distinct separation. Carcasses with evidences of more advanced maturity than described in this paragraph are classified as beef. Carcasses not classified as beef but whose color of lean is not comparable with their other evidences of maturity shall be classed as veal or calf in accordance with the following:

(a) Carcasses whose indications of maturity other than color of lean are within the veal class but whose color of lean is darker than dark grayish pink shall be classed as calf.

(b) Carcasses whose evidences of maturity other than color of lean are within the range included in the calf class shall be classed as veal provided they have a correspondingly lighter color of lean within the darker one-half of the range of color included in the veal class. For example, a carcass whose evidences of maturity other than color of lean are midway within the range of the calf class shall be classed as veal if its color of lean is not darker than midway within the darker one-half of the range of color included in the veal class.

(c) Carcasses with color of lean within the lighter one-half of the veal class shall be classed as veal provided their other evidences of maturity do not exceed that associated with the juncture of the calf and beef classes.

§ 54.114 Classes of veal and calf carcasses.

Class determination is based on the apparent sex condition of the animal at time of slaughter. Hence, there are three classes of veal and calf carcasses—steers, heifers, and bulls. While recognition may sometimes be given to these different classes on the market, especially calf carcasses from bulls that are approaching beef in maturity, the characteristics of such carcasses are not sufficiently different from those of steers and heifers to warrant the development of separate standards for them. Therefore, the grade standards which follow are equally applicable to all classes of veal and calf carcasses.

§ 54.115 Application of standards.

(a) Veal and calf carcasses are graded on a composite evaluation of two general grade factors—conformation and quality. These factors are concerned with the proportions of lean, fat, and bone in the carcass and the quality of the lean.

(b) Conformation is the manner of formation of the carcass. The conformation descriptions included in each of the grade specifications refer to the thickness and fullness of the carcass and its various parts. Conformation is evaluated by averaging the conformation of the various parts of the carcass, considering not only the proportion that each part is of the carcass but also the general value of each part as compared with other parts. Superior conformation implies a high proportion of meat to bone and a high proportion of the weight of the carcass in the more valuable parts. It is reflected in carcasses which are thickly fleshed and full and thick in relation to their length and which have a plump, well-rounded appearance. Inferior conformation implies a low proportion of meat to bone and a low proportion of the weight of the carcass in the more valuable parts. It is reflected in carcasses which are very thinly fleshed, and very narrow in relation to their length, and which have a very angular, thin sunken appearance.

(c) Quality of lean—in all veal carcasses, all unribbed calf carcasses, and in ribbed calf carcasses in which their degree of marbling is not a consideration—usually can be evaluated with a high degree of accuracy by giving equal consideration to the following factors, as available:

(1) The amount of feathering (fat intermingled within the lean between the ribs) and (2) the quantity of fat streakings within and upon the inside flank muscles. (In making these evaluations, the amounts of feathering and flank fat streakings are considered in relation to color (veal) and maturity (calf).) In addition, however, consideration also may be given to other factors if, in the opinion of the grader, this will result in a more accurate quality assessment. Examples of such other factors include firmness of the

lean, the distribution of feathering, the amount of fat covering over the diaphragm or "skirt", and the amount and character of the external and kidney and pelvic fat. In making these evaluations, feathering and flank fat streakings are categorized in descending order of quantity as follows: Extremely abundant, very abundant, abundant, moderately abundant, slightly abundant, moderate, modest, small, slight, traces, practically none, and none. Figure 1 depicts the quality grade equivalent of various degrees of feathering and flank fat streakings in relation to color of lean (veal) or maturity (calf). From this figure it can be seen, for example, that the degrees of feathering or fat streakings associated with minimum Choice quality for veal increase from minimum traces for carcasses having the lightest color of lean to maximum traces for carcasses with a dark grayish pink color of lean.

FIGURE 1. -- QUALITY GRADE EQUIVALENT OF VARIOUS DEGREES OF FEATHERING AND FLANK FAT STREAKINGS IN RELATION TO COLOR OF LEAN (VEAL) OR MATURITY (CALF).

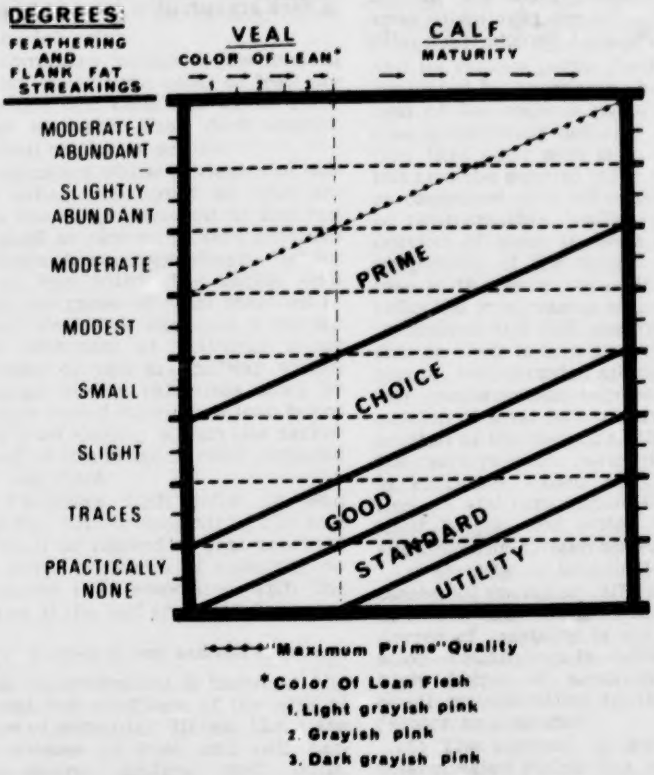

Figure 1 depicts the quality grade equivalent of various degrees of feathering and flank fat streakings in relation to color of lean (veal) or maturity (calf). From this figure it can be seen, for example, that the degrees of feathering or fat streakings associated with minimum Choice quality for veal increase from minimum traces for carcasses having the lightest color of lean to maximum traces for carcasses with a dark grayish pink color of lean.

(d) The requirements relating to firmness of the lean are described in the specifications for each grade and are based on the following degrees in descending order of firmness; extremely firm, very firm, firm, moderately firm, slightly firm, slightly soft, moderately soft, soft, very soft, and extremely soft. However, no credit is given to additional firmness of lean beyond "maximum slightly firm" in veal or beyond "maximum moderately firm" in calf.

(e) When grading ribbed calf carcasses in which their degree of marbling is a consideration, the quality evaluation of the lean is based entirely on the characteristics of the lean as exposed in a cut surface. The official standards for grades of beef recognize nine different degrees of marbling. In descending order of amount these are as follows: Abundant, moderately abundant, slightly abundant, moderate, modest, small, slight, traces, and practically devoid. Illustrations of the lower limits of eight of these nine degrees are available from the Department of Agriculture. These degrees of marbling and their illustrations also are used to describe and evaluate marbling in calf carcasses. Marbling requirements are included in each of the Prime, Choice, and Good grade specifications.

(f) To facilitate the application of the standards, no credit is given to degrees of feathering, flank fat streakings, or marbling beyond those associated with the quality grade equivalent of "Maximum Prime." "Maximum Prime" quality is represented by a development of each of these three factors which is two degrees greater than that specified as minimum for Prime.

(g) The quality indicating requirements referenced in the standards for each grade are based on their development in properly chilled carcasses and when these relate to a cut surface of the lean, they are based on a cross section of the ribeye muscle between the 12th and 13th ribs.

(h) The final grade of a carcass is based on a composite evaluation of its conformation and quality. Conformation and quality often are not developed to the same degree in a carcass and it is obvious that each grade will include various combinations of development of these two characteristics. Examples of how conformation and quality are combined into the final quality grade are included in each of the grade descriptions. However, the principles governing the compensations of variations in development of quality and conformation are as follows: In each of the grades a superior development of quality is permitted to compensate, without limit, for a deficient development of conformation. In this instance the rate of compensation in all grades is on an equal basis—a given degree of superior quality compensates for the same degree of deficient conformation. The reverse type of compensation—a superior development of conformation for an inferior development of quality—is not permitted in the Prime and Choice grades. In all other grades this type of compensation is permitted but only to the extent of one-third of a grade of deficient quality. The rate of this type of compensation is also on an equal basis—a given degree of superior conformation compensates for the same degree of deficient quality.

(i) The colors of lean referenced in the standards reflect only the colors as present in normally developed veal and calf carcasses. They are not intended to apply to colors of lean associated with so-called "dark cutting" veal or calf. This condition does not have the same significance in grading as do the darker shades of pink and red associated with advancing maturity. The dark color of the lean associated with "dark cutting" veal or calf is present in varying degrees from that which is barely evident to so-called "black cutters" in which the lean is actually nearly black in color and usually has a "gummy" texture. Dependent upon the degree to which this characteristic is developed, the final grade of carcasses which otherwise would qualify for the Prime, Choice, or Good grades may be reduced as much as one full grade in veal or calf otherwise eligible for the Standard grade, the final grade may be reduced as much as one-half grade. In the Utility grade this condition is not considered.

(j) Carcasses qualifying for any particular grade may vary with respect to their relative development of the various grade factors and there will be carcasses which qualify for a particular grade some of the characteristics of which may be typical of another grade. Because it is impractical to describe the nearly limitless number of such recognizable combinations of characteristics, the standards for each grade describe only a veal or calf carcass which has a relatively similar development of conformation and quality and which also represents the lower limit of each grade.

[42 FR 53921, Oct. 4, 1977, as amended at 45 FR 51763, Aug. 5, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 54.116 Specifications for official U.S. standards for grades of veal carcasses.

(a) *Prime.* (1) Veal carcasses with minimum Prime grade conformation tend to be moderately wide and thick in relation to their length. They are slightly thick-fleshed and have a slightly plump appearance. Legs are slightly thick and bulging. Loins and backs tend to be moderately full and plump. Shoulders and breasts tend to be moderately thick.

(2) Figure 1 in § 54.115 depicts the degree of feathering and flank fat streakings associated with minimum Prime quality for different colors of lean. The lean flesh is slightly firm, regardless of its color.

(3) A development of quality superior to that specified as minimum for the Prime grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Prime at an equal rate as indicated in the following example. A carcass which has midpoint Prime quality may have conformation equal to the midpoint of the Choice grade and remain eligible for Prime. However, regardless of the extent to which the conformation of a carcass exceeds the minimum of the Prime grade, a carcass must have minimum Prime quality to be eligible for Prime.

(b) *Choice.* (1) Veal carcasses with minimum Choice grade conformation tend to be slightly wide and thick in relation to their length. They tend to be slightly thin-fleshed and have little or no evidence of plumpness. Loins, backs, and legs are slightly thin and nearly flat. Shoulders and breasts tend to be slightly thin.

(2) Figure 1 in § 54.115 depicts the degree of feathering and flank fat streakings associated with minimum Choice quality for different colors of lean. The lean flesh is slightly soft regardless of its color.

(3) A development of quality superior to that specified as minimum for the Choice grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Choice at an equal rate as indicated in the following example: A carcass which has midpoint Choice quality may have conformation equal to the midpoint of the Good grade and remain eligible for Choice. However, regardless of the extent to which the conformation of a carcass exceeds the minimum of the Choice grade, a carcass must have minimum Choice quality to be eligible for Choice.

(c) *Good.* (1) Veal carcasses with minimum Good grade conformation are rangy, angular, and narrow in relation to their length. They are thinly fleshed. Legs are thin and tapering and slightly concave. Loins and back are depressed. Shoulders and breasts are thin.

(2) Figure 1 in § 54.115 depicts the degree of feathering and flank fat streakings associated with minimum Good quality for different colors of lean. The lean flesh is moderately soft regardless of its color.

(3) A development of quality superior to that specified as minimum for the Good grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Good at an equal rate as indicated in the following example: A carcass which has midpoint Good grade quality may have conformation equivalent to the midpoint of the Standard grade and remain eligible for Good. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper third of the Standard grade. Compensation of superior conforma-

tion for inferior quality is limited to one-third grade of deficient quality.

(d) *Standard*. (1) Veal carcasses with minimum Standard grade conformation are very rangy and angular and very narrow in relation to their length. They are very thinly fleshed. Legs are very thin and moderately concave. Loins and backs are very depressed. Shoulders and breasts are very thin.

(2) Figure 1 in § 54.115 depicts the degree of feathering and flank fat streakings associated with minimum Standard quality for different colors of lean. The lean flesh is soft regardless of its color.

(3) A development of quality superior to that specified as minimum for the Standard grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Standard at an equal rate as indicated in the following example: A carcass which has midpoint Standard quality may have conformation equal to the midpoint of the Utility grade and remain eligibility for Standard. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Standard grade may qualify for Standard with a development of quality equal to the minimum of the upper third of the Utility grade Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.

(e) *Utility*. The Utility grade includes those veal carcasses whose characteristics are inferior to those specified as minimum for the Standard grade.

§ 54.117 Specifications for official United States standards for grades of calf carcasses.

(a) *Prime*. (1) Calf carcasses with minimum Prime grade conformation tend to be moderately wide and thick in relation to their length. They are moderately thick-fleshed and have a moderately plump appearance. Legs tend to be moderately thick and bulging. Loins and backs tend to be moderately full and plump. Shoulders and breasts tend to be moderately thick.

(2) Figure 1 in § 54.115 depicts the degree of feathering and flank fat streakings associated with minimum Prime quality. The degree of marbling required for minimum Prime quality increases from minimum practically devoid for the very youngest carcasses classified as calf to a maximum moderate amount for carcasses with maturity at the juncture of the calf and beef classes. The lean flesh is moderately firm regardless of maturity.

(3) A development of quality superior to that specified as minimum for the Prime grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Prime at an equal rate as indicated in the following example: A carcass which has midpoint Prime quality may have conformation equal to the midpoint of the Choice grade and remain eligible for Prime. However, regardless of the extent to which the conformation of a carcass exceeds the minimum of the Prime grade, a carcass must have minimum Prime quality to be eligible for Prime.

(b) *Choice*. (1) Calf carcasses with minimum Choice grade conformation tend to be slightly wide and thick in relation to their length. They tend to be slightly thick-fleshed and have a slightly plump appearance. Legs are slightly thick but have little evidence of plumpness. Loins and backs are very slightly full and plump. Shoulders and breasts are slightly thick.

(2) Figure 1 in § 54.115 depicts the degree of feathering and flank fat streakings associated with minimum Choice quality. The degree of marbling required for minimum Choice quality increases from minimum practically devoid for carcasses at midpoint calf maturity to a maximum slight amount for carcasses with maturity at the juncture of the calf and beef classes. Marbling is not required for Choice quality in carcasses which are less than midpoint calf in maturity. The lean flesh is slightly firm regardless of maturity.

(3) A development of quality superior to that specified as minimum for the Choice grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Choice at an equal rate as indicated in the following example: A carcass which has midpoint

Choice quality may have conformation equal to the midpoint of the Good grade and remain eligible for Choice. However, regardless of the extent to which the conformation of a carcass exceeds the minimum of the Choice grade, a carcass must have minimum Choice quality to be eligible for Choice.

(c) *Good.* (1) Calf carcasses with minimum Good grade conformation tend to be rangy, angular, and narrow in relation to their length. They tend to be thinly fleshed. Legs are thin and tapering and very slightly concave. Loins and backs are slightly shallow and depressed. Shoulders and breasts are thin.

(2) Figure 1 in § 54.115 depicts the degree of feathering and flank fat streakings associated with minimum Good quality. The minimum degree of marbling required for Good quality decreases from typical traces for carcasses with maturity at the juncture of the calf and beef classes to minimum practically devoid for carcasses midway in maturity within the more mature half of the range of maturity included in the calf class. In less mature carcasses, marbling is not required for Good quality. The lean flesh is moderately soft regardless of maturity.

(3) A development of quality superior to that specified as minimum for the Good grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Good at an equal rate as indicated in the following example: A carcass which has midpoint Good grade quality may have conformation equivalent to the midpoint of the Standard grade and remain eligible for Good. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper third of the Standard grade. Compensation of superior conformation for inderior quality is limited to one-third grade of deficient quality.

(d) *Standard.* (1) Calf carcasses with minimum Standard grade conformation are rangy, angular, and very narrow in relation to their length. They are very thinly fleshed. Legs are very shallow and depressed. Shoulders and breasts are very thin.

(2) Figure 1 in § 54.115 depicts the degree of feathering and flank fat streakings associated with minimum Standard quality. The lean flesh is soft regardless of maturity.

(3) A development of quality which is superior to that specified as minimum for the Standard grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Standard at an equal rate as indicated in the following example: A carcass which has midpoint Standard quality may have conformation equal to the midpoint of the Utility grade and remain eligible for Standard. Also, a carcass which has conformation at least one-third grade superior to that specified for the minimum of the Standard grade may qualify for Standard with a development of quality equal to the lower limit of the upper third of the Utility grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.

(e) *Utility.* The Utility grade includes those calf carcasses whose characteristics are inferior to those specified as minimum for the Standard grade.

LAMB, YEARLING MUTTON, AND MUTTON CARCASSES

§ 54.121 Scope.

These standards for grades of lamb, yearling mutton, and mutton are written primarily in terms of carcasses. However, they also are applicable to the grading of sides. To simplify the phrasing of the standards, the words "carcass" and "carcasses" are used also to mean "side" or "sides."

[47 FR 40143, Sept. 13, 1982]

§ 54.122 Differentiation between lamb, yearling mutton, and mutton carcasses.

(a) Ovine carcasses are classified as lamb, yearling mutton, or mutton depending upon their evidences of maturity as indicated by the development of their muscular and skeletal systems. Typical lamb carcasses tend to have slightly wide and moderately flat rib bones and a light red color and fine texture of lean. By contrast, typical yearling mutton carcasses have moderately wide rib bones which tend to be flat and a slightly dark red color and slightly coarse texture of lean. Typical mutton carcasses have wide, flat, rib bones and a dark red color and coarse texture of lean.

(b) In the dressing of ovine carcasses, both front cannon bones (trotters) normally are left attached to the carcass although in some instances, one or both trotters may be removed. If present, trotters will terminate in perfect break joints (all ridges forming the break joints are intact and well defined), imperfect break joints, or spool joints. For determining the maturity of ovine carcasses, an imperfect break joint is considered the same as a spool joint and it is assumed that there was a spool joint on any missing trotter. These variations, as indicated by the following guidelines, are important considerations in determining whether a carcass is classed as lamb, yearling mutton, or mutton.

(c) A carcass with perfect break joints on both trotters will be classed lamb or yearling mutton based on its other evidences of maturity.

(d) A carcass with spool joints on both trotters will be classed as yearling mutton or mutton based on its other evidences of maturity. Mutton carcasses always have spool joints on both front trotters.

(e) A carcass which has a perfect break joint on one trotter and has either: (1) A spool joint on the other trotter, or (2) has had the other trotter removed, will be classed as a lamb if its other maturity characteristics are not more advanced than described in the grade specifications as typical of the more mature lamb group. Otherwise, such carcasses will be classed as yearling mutton. Maturity within the lamb class shall be based on the combination of lean and all skeletal characteristics.

(f) Except for the above referenced considerations given to break joints and spool joints, in making other maturity evaluations more consideration is given to the characteristics of the flesh than is given to the characteristics of the skeleton.

[47 FR 40143, Sept. 13, 1982]

§ 54.123 Application of standards.

(a) *Grade factors.* (1) The grade of an ovine carcass is based on separate evaluations of two general considerations: Palatability-indicating characteristics of the lean and conformation, herein referred to as "quality;" and the estimated percent of closely trimmed, boneless, major retail cuts to be derived from the carcass, herein referred to as "yield". However, the grade of an ovine carcass when applied by Federal meat graders may consist of an identification for the quality grade, the yield grade, or a combination of both the quality and yield grades. In previous grade standards for ovine carcasses, the Department used the term "quality" to refer only to the palatability-indicating characteristics of the lean without reference to conformation. Its use herein to include consideration of conformation is not intended to imply that variations in conformation are either directly or indirectly related to differences in palatability.

(2) The grade standards are written so that the quality and yield grade standards are contained in separate sections. The quality grade section is divided further into three separate sections applicable to lamb, yearling mutton, and mutton carcasses. There are four quality grades within each class—Prime, Choice, Good, and Utility for lamb and yearling mutton, and Choice, Good, Utility, and Cull for mutton. There are five yield grades applicable to all classes of ovine carcasses, denoted by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability.

(3) Carcasses qualifying for any particular grade may vary with respect to the relative development of their individual grade factors, and there will be carcasses which qualify for a particular grade in which the development of some of these individual grade factors will be more typical of other grades. Because it is impractical to describe the nearly limitless number of such recognizable combinations of charac-

teristics, the standards for each quality and yield grade describe only carcasses which have a relatively similar development of individual factors and which are also representative of the lower limits of each grade. In the quality grade standards, examples of the extent to which superiority in quality may compensate for deficiencies in conformation, and vice versa, are indicated for each grade. In the Prime and Choice grades certain minimum requirements for external fat covering also are indicated.

(b) *Quality grades.* (1) The quality grade of an ovine carcass is based on separate evaluations of two general considerations—the quality or the palatability-indicating characteristics of the lean and the conformation of the carcass.

(2) Conformation is the manner of formation of the carcass with particular reference to the relative development of the muscular and skeletal systems although it also is influenced, to some extent, by the quantity and distribution of external finish. However, external fat in excess of that normally left on retail cuts is not considered in evaluating conformation. The conformation descriptions included in each of the grade specifications refer to the thickness of muscling and to an overall degree of thickness and fullness of the carcass. However, carcasses which meet the requirements for thickness of muscling specified for a grade will be considered to have conformation adequate for that grade despite the fact that, because of a lack of fatness, they may not have the overall degree of thickness and fullness described. The conformation of a carcass is evaluated by averaging the conformation of its various component parts, giving consideration not only to the proportion that each cut is of the carcass weight but also to the general desirability of each cut as compared with other cuts. Superior conformation implies a high proportion of edible meat to bone and a high proportion of the weight of the carcass in the more demaded cuts and is reflected in carcasses which are very thickly muscled, very wide and thick in relation to their length, and which have a very plump, full, and well-rounded appearance. Inferior conformation implies a low proportion of edible meat to bone and a low proportion of the weight of the carcass in the more demanded cuts and is reflected in carcasses which are very thinly muscled, very narrow in relation to their length, and which have a very angular, thin, and sunken appearance.

(3) The quality of the lean flesh is best evaluated by consideration of its texture, firmness, and marbling, as observed in a cut surface, in relation to the apparent maturity of the animal from which the carcass was produced. However, in grading ovine carcasses direct observation of these characteristics usually is not possible. Therefore, the quality of the lean is evaluated indirectly by giving consideration to the quantity of fat streakings within and upon the inside flank muscles in relation to the apparent evidences of maturity. Within each grade, the requirements for flank fat streakings increase progressively with evidences of advancing maturity. To facilitate the application of this principle, the relationship between flank fat streakings, maturity, and quality is shown in Figure 1. Flank fat streakings are categorized in descending order of quantity as follows: abundant, moderately abundant, slightly abundant, moderate, modest, small, slight, traces, practically devoid, and devoid. In addition, the standards specify a minimum degree of firmness of lean flesh and external fat for each grade and a minimum degree of external fatness for carcasses in the Prime and Choice grades. The different degrees of firmness in descending order of firmness are: extremely firm, tends to be extremely firm, firm, tends to be firm, moderately firm, tends to be moderately firm, slightly firm, tends to be slightly firm, tends to be slightly soft, slightly soft, tends to be moderately soft, moderately soft, soft, and very soft.

(4) The quality standards are intended to apply to all ovine carcasses without regard to the apparent sex condition of the animal at time of slaughter. However, carcasses from males which have thick, heavy necks and shoulders typical of uncastrated males are discounted in quality grade in

accord with the extent to which these characteristics are developed. Such discounts may vary from less than one-half grade in carcasses from young lambs in which such characteristics are barely noticeable to as much as two full grades in carcasses from mature rams in which such characteristics are very pronounced.

(c) *Yield grades.* (1) The yield grade of an ovine carcass is determined by considering three characteristics: The amount of external fat, the amount of kidney and pelvic fat, and the conformation grade of the legs.

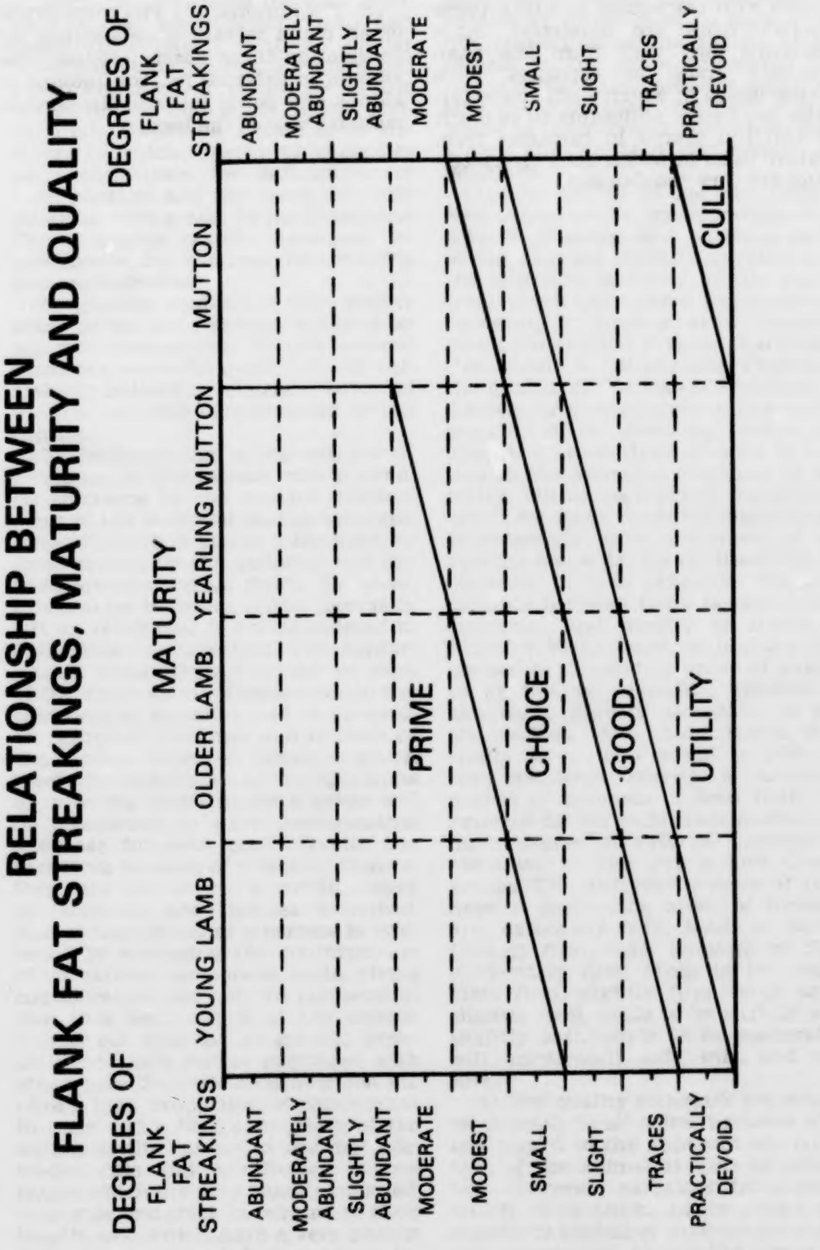
RELATIONSHIP BETWEEN
FLANK FAT STREAKINGS, MATURITY AND QUALITY
DEGREES OF FLANK FAT STREAKINGS
ABUNDANT
MODERATELY ABUNDANT
SLIGHTLY ABUNDANT
MODERATE
MODEST
SMALL
SLIGHT
TRACES
PRACTICALLY DEVOID
MATURITY
YOUNG LAMB
OLDER LAMB
YEARLING MUTTON
MUTTON
PRIME
CHOICE
GOOD
UTILITY
CULL
DEGREES OF FLANK FAT STREAKINGS
ABUNDANT
MODERATELY ABUNDANT
SLIGHTLY ABUNDANT
MODERATE
MODEST
SMALL
SLIGHT
TRACES
PRACTICALLY DEVOID

Figure 1

(2) The amount of external fat for carcasses with a normal distribution of this fat is evaluated in terms of its actual thickness over the center of the ribeye muscle and is measured perpendicular to the outside surface between the 12th and 13th ribs. On intact carcasses, this fat thickness is measured by probing. On carcasses which do not have a normal distribution of external fat, the fat thickness measurement over the ribeye may be adjusted, as necessary, to reflect unusual amounts of fat on other parts of the carcass. In determining the amount of this adjustment, particular attention is given to the amount of external fat on those parts where fat is deposited at a faster-than-average rate, particularly the rump, outside of the shoulders, breast, flank, and cod or udder. Thus, in a carcass which is fatter over these parts than is normally associated with the actual fat thickness over the ribeye, the measurement is adjusted upward. Conversely, in a carcass which has less fat over these parts than is normally associated with the actual fat thickness over the ribeye, the measurement is adjusted downward. In many carcasses no such adjustment is necessary; however, an adjustment in the thickness of fat measurement of 0.05 or 0.10 inch is not uncommon. In some carcasses a greater adjustment may be necessary. As a guide in making these adjustments, the standards for each yield grade include an additional related measurement—body wall thickness, which is measured 5 inches laterally from the middle of the backbone between the 12th and 13th ribs. As the amount of external fat increases, the percent of retail cuts decreases—each 0.05 inch change in adjusted fat thickness over the ribeye changes the yield grade by one-third of a grade.

(3) The amount of kidney and pelvic fat considered in determining the yield grade includes the kidney knob (kidney and surrounding fat) and the lumbar and pelvic fat in the loin and leg which are removed in making closely trimmed retail cuts. The amount of these fats is evaluated subjectively and expressed as a percent of the carcass weight. As the amount of kidney and pelvic fat increases, the percent of retail cuts decreases—a change of 1 percent of the carcass weight in kidney and pelvic fat changes the yield grade by one-fourth of a grade.

(4) The conformation grade of the legs is evaluated as described in the quality standards. The evaluation is made in terms of thirds of a grade and coded using 15 for high Prime and 1 for low Cull. An increase in conformation grade of the legs increases the percent of retail cuts—a change of one-third of a grade changes the yield grade by 5 percent of a grade.

(5) The standards include an equation for determining yield grade. The application of this equation usually results in a fractional grade. However, in normal grading operations any fractional part of a yield grade is dropped. For example, if the computation results in a yield grade of 3.9, the final yield grade is 3—it is not rounded to 4.

(6) The yield grade standards for each of the first four yield grades list characteristics of a carcass with descriptions of the amount of external fat normally present on various parts of the carcass. These descriptions are not specific requirements—they are included only as illustrations of carcasses which are near the borderline between grades. For example, the characteristics listed for Yield Grade 1 represent a carcass which is near the borderline of Yield Grade 1 and Yield Grade 2. These descriptions facilitate the subjective determination of the yield grade without making detailed measurements and computations. The yield grade for most ovine carcasses can be determined accurately on the basis of a visual appraisal.

[47 FR 40143, Sept. 13, 1982]

§ 54.124 Specifications for official U.S. standards for grades of lamb carcasses (quality).

(a) *Prime.* (1) Lamb carcasses having minimum conformation qualifications for the Prime grade tend to be thickly muscled throughout, are moderately wide and thick in relation to their length and have moderately plump and full legs, moderately wide and thick backs, and moderately thick and full shoulders.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for two maturity groups which cover the entire range of maturity within the lamb class. Typical carcasses from the younger group have moderately narrow, slightly flat rib bones; moderately red and moist and porous break joints; and a slightly dark pink color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum small to maximum small (see Figure 1).

(3) Typical carcasses from the more mature group have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; and a light red color of inside flank muscles. The minimum degree of flank fat streakings required increases with advancing maturity throughout this group from minimum modest to maximum modest (see Figure 1).

(4) Regardless of the extent to which the conformation of a carcass may exceed the minimum requirements for Prime, a carcass must have minimum Prime quality to be eligible for the Prime grade. However, a development of quality which is superior to that specified as minimum for the Prime grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Prime as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Prime grade (one degree of flank fat streakings more than required as the minimum for Prime) may have conformation equivalent to the mid-point of the Choice grade and remain eligible for Prime. However, in no instance may a carcass be graded Prime which has a development of conformation inferior to that specified as minimum for the Choice grade. In addition, to be eligible for Prime, the lean flesh and external fat of lamb carcasses must be not less than tends to be moderately firm. Also, to be eligible for Prime, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outside of the center parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.

(b) *Choice.* (1) Lamb carcasses having minimum conformation qualifications for the Choice grade are slightly thick muscled throughout, they tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs, slightly wide and thick backs, and slightly thick and full shoulders.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for two maturity groups which cover the entire range of maturity within the lamb class. Typical carcasses from the younger group have moderately narrow, slightly flat rib bones; moderately red and moist and porous break joints; and a moderately dark pink color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum traces to maximum traces (see Figure 1).

(3) Typical carcasses from the more mature group have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; and a moderately light red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum slight to maximum slight (see Figure 1).

(4) A development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum

for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Choice, the lean flesh and external fat of lamb carcasses must be not less than tends to be slightly firm. Also, to be eligible for Choice, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outside of the center parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.

(c) *Good.* (1) Lamb carcasses having minimum conformation qualifications for the Good grade are slightly thin muscled throughout, are moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for two maturity groups which cover the entire range of maturity within the lamb class. Typical carcasses from the younger group have moderately narrow, slightly flat rib bones; moderately red and moist and porous break joints; and a dark pink color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum practically devoid to maximum practically devoid (see Figure 1).

(3) Typical carcasses from the more mature group have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; and a slightly dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum traces to maximum traces (see Figure 1).

(4) A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A carcass which has evidences of quality at least one-third grade superior to that specified as minimum for the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to the minimum for the upper one-third of the Utility grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper third of the Utility grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Good, the lean flesh and external fat of lamb carcasses must be not less than slightly soft.

(d) *Utility.* The Utility grade includes those lamb carcasses whose characteristics are inferior to those specified as minimum for the Good grade.

[47 FR 40146, Sept. 13, 1982]

§ 54.125 Specifications for official U.S. standards for grades of yearling mutton carcasses (quality).

(a) *Prime.* (1) Yearling mutton carcasses having minimum conformation qualifications for the Prime grade tend to be thickly muscled throughout, are moderately wide and thick in relation to their length and have moderately plump and full legs, moderately wide and thick backs, and moderately thick and full shoulders.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the yearling mutton class. Typical yearling mutton carcasses have moderately wide rib bones which tend to be flat; and a slightly dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing matu-

rity throughout this group from minimum moderate to maximum moderate (see Figure 1).

(3) Regardless of the extent to which the conformation of a carcass may exceed the minimum requirements for Prime, a carcass must have minimum Prime quality to be eligible for the Prime grade. However, a development of quality which is superior to that specified as minimum for the Prime grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Prime as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Prime grade (one degree of flank fat streakings more than required as the minimum for Prime) may have conformation equivalent to the mid-point of the Choice grade and remain eligible for Prime. However, in no instance may a carcass be graded Prime which has a development of conformation inferior to that specified as minimum for the Choice grade. In addition, to be eligible for Prime, the lean flesh and external fat must be not less than tends to be moderately firm. Also, to be eligible for Prime, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outside of the center parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.

(b) *Choice.* (1) Yearling mutton carcasses having minimum conformation qualifications for the Choice grade are slightly thick muscled throughout, they tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs, slightly wide and thick backs, and slightly thick and full shoulders.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the yearling mutton class. Typical yearling mutton carcasses have moderately wide rib bones which tend to be flat; and a color of inside flank muscles which tends to be moderately dark red. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum small to maximum small (see Figure 1).

(3) A development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to the specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade. Also, a carcass which has a development of conformation at least one-third grade superior to that specified as minimum for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Choice, the lean flesh and external fat must be not less than tends to be slightly firm. Also, to be eligible for Choice, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outside of the center parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.

(c) *Good.* (1) Yearling mutton carcasses having minimum conformation qualifications for the Good grade are slightly thin muscled throughout, are moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the yearling mutton class. Typical yearling mutton carcasses have moderately wide rib

bones which tend to be flat; and a moderately dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum slight to maximum slight (see Figure 1).

(3) A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A carcass which has evidence of quality at least one-third grade superior to that specified as minimum for the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to the minimum for the upper one-third of the Utility grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper third of the Utility grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Good, the lean flesh and external fat must be not less than slightly soft.

(d) *Utility.* The Utility grade includes those yearling mutton carcasses whose characteristics are inferior to those specified as minimum for the Good grade.

[47 FR 40147, Sept. 13, 1982]

§ 54.126 Specifications for official U.S. standards for grades of mutton carcasses (quality).

(a) *Choice.* (1) Mutton carcasses having minimum conformation qualifications for the Choice grade are slightly thick muscled throughout, they tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs, slightly wide and thick backs, and slightly thick and full shoulders.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the mutton class. Typical mutton carcasses have wide, flat rib bones; and a dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum modest to maximum modest, (see Figure 1).

(3) A development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade (one degree of flank fat streakings more than required as the minimum of Choice) may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade. Also, a carcass which has conformation at least ond-third grade superior to that specified as minimum for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Choice, the lean flesh and external fat must be not less than tends to be slightly firm. Also, to be eligible for Choice, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outside of the center parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be more than plainly visible through the fat.

(b) *Good.* (1) Mutton carcasses having minimum conformation for the Good grade are slightly thin muscled throughout, moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the mutton class. Typical mutton carcasses have wide, flat rib bones; and a dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from a minimum small amount to a maximum small amount (see Figure 1).

(3) A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A carcass which has evidence of quality at least one-third grade superior to that specified as minimum for the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to that specified as minimum for the Utility grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper third of the Utility grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Good, the lean flesh and external fat must be not less than slightly soft.

(c) *Utility.* (1) Mutton carcasses having minimum conformation qualifications for the Utility grade are thinly muscled throughout, are very angular and very narrow in relation to their length and have thin, slightly concave legs, very narrow and sunken backs, and narrow, sharp shoulders. Hips and shoulder joints are slightly visible.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the mutton class. Typical mutton carcasses have wide, flat rib bones; and a very dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum practically devoid to maximum practically devoid (see Figure 1).

(3) A development of quality which is superior to that specified as minimum for the Utility grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Utility as indicated in the following example: A carcass which has evidence of quality at least one-third grade superior to that specified as minimum for the Utility grade may have conformation equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility. However, in no instance may a carcass be graded Utility which has a development of conformation inferior to the minimum for the upper one-third of the Cull grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Utility grade may qualify for Utility with a development of quality equivalent to the lower limit of the upper third of the Cull grade. Compensation of superior conformation for inferior quality is also limited to one-third grade of deficient quality. In addition, to be eligible for Utility, the lean flesh and external fat must be not less than soft.

(d) *Cull.* The Cull grade includes those mutton carcasses whose characteristics are inferior to those specified as minimum for the Utility grade.

[47 FR 40148, Sept. 13, 1982]

§ 54.127 Specifications for official U.S. standards for grades of carcass lamb, yearling mutton, and mutton (yield).

(a) The yield grade of an ovine carcass or side is determined on the basis of the following equation: Yield Grade = 1.66 − (0.05 × leg conformation grade code) + (0.25 × percent kidney and pelvic fat) + (6.66 × adjusted fat thickness over the ribeye inches).

(b) The following descriptions provide a guide to the characteristics of carcasses in each yield grade to aid in determining yield grades subjectively.

(1) *Yield Grade 1.* (i) A carcass in Yield Grade 1 usually has only a thin layer of external fat over the back and loin and slight deposits of fat in the flanks and cod or udder. There is usually a very thin layer of fat over the top of the shoulders and the outside of the legs. Muscles are ususally plainly visible on most areas of the carcass.

(ii) A carcass of this yield grade which is near the borderline of Yield Grade 1 and Yield Grade 2 might have 0.1 inch of fat over the ribeye, 1.5 percent of its weight in kidney and pelvic fat, and an average Prime leg conformation grade. Such a carcass with normal fat distribution would also have a body wall thickness of 0.5 inch.

(2) *Yield Grade 2.* (i) A carcass in Yield Grade 2 usually has a slightly thin layer of fat over the back and loin and the muscles of the back are not visible. The top of the shoulders and the outside of the legs have a thin covering of fat and the muscles are slightly visible. There are usually small deposits of fat in the flanks and cod or udder.

(ii) A carcass of this yield grade which is near the borderline of Yield Grade 2 and Yield Grade 3 might have 0.2 inch of fat over the ribeye, 2.5 percent of its weight in kidney and pelvic fat, and a low Prime leg conformation grade. Such a carcass with normal fat distribution would also have a body wall thickness of 0.7 inch.

(3) *Yield Grade 3.* (i) A carcass in Yield Grade 3 usually has a slightly thick covering of fat over the back. The top of the shoulders are completely covered with fat, although the muscles are still barely visible. The legs are nearly completely covered, although the muscles on the outside of the lower legs are visible. There usually are slightly large deposits of fat in the flanks and cod or udder.

(ii) A carcass of this yield grade which is near the borderline of Yield Grade 3 and Yield Grade 4 might have 0.3 inch of fat over the ribeye, 3.5 percent of its weight in kidney and pelvic fat, and a high Choice leg conformation grade. Such a carcass with normal fat distribution would also have a body wall thickness of 0.9 inch.

(4) *Yield Grade 4.* (i) A carcass in Yield Grade 4 usually is completely covered with fat. There usually is a moderately thick covering of fat over the back and a slightly thick covering over the shoulder and legs. There usually are large deposits of fat in the flanks and cod or udder.

(ii) A carcass in this yield grade which is near the borderline of Yield Grade 4 and Yield Grade 5 might have 0.4 inch of fat over the ribeye, 4.5 percent of its weight in kidney and pelvic fat, and an average Choice leg conformation grade. Such a carcass with normal fat distribution would also have a body wall thickness of 1.1 inches.

(5) *Yield Grade 5.* A carcass in Yield Grade 5 usually has more external and kidney and pelvic fat and a lower conformation grade of leg than a carcass in Yield Grade 4.

[42 FR 53921, Oct. 4, 1977, as amended at 45 FR 51763, Aug. 5, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

PORK CARCASSES

§ 54.131 Scope.

These standards for grades of pork are written primarily in terms of carcasses. However, they also are applicable to the grading of sides. To simplify the phrasing of the standards, the words "carcass" and "carcasses" are used also to mean "side" or "sides."

[49 FR 48672, Dec. 14, 1984]

§ 54.132 Bases for pork carcass standards.

The official standards for pork carcass grades provide for segregation according to (a) class, as determined by the apparent sex condition of the animal at the time of slaughter, and (b) grade, which reflects quality and the expected yield of lean cuts in the carcass.

[49 FR 48672, Dec. 14, 1984]

§ 54.133 Pork carcass classes.

The five classes of pork carcasses, comparable to the same five classes of slaughter hogs, are barrow, gilt, sow, stag, and boar carcasses. The official standards provide for the grading of barrow, gilt, and sow carcasses. Grades are not provided for stag and boar carcasses.

[49 FR 48672, Dec. 14, 1984]

§ 54.134 Application of standards for grades of barrow and gilt carcasses.

(a) Grades for barrow and gilt carcasses are based on two general considerations: (1) Quality—which includes characteristics of the lean and fat, and (2) the expected yield of the four lean cuts (ham, loin, picnic shoulder, and Boston butt).

(b) Two general levels of quality are recognized: (1) Acceptable and (2) unacceptable. The quality of the lean is best evaluated by a direct observation of its characteristics in a cut surface, and when a cut surface of a major muscle is available, this shall be used as the basis for the quality determination. Quality of the lean is described in terms of characteristics of the loin eye muscle at the 10th rib. When this surface is not available, other exposed major muscle surfaces can be used for quality determinations based on the normal development of the characteristics in relation to those described for the loin eye muscle at the 10th rib. When a major muscle cut surface is not available, the quality of the lean shall be evaluated indirectly based on the quality-indicating characteristics that are evident in the carcass. These include firmness of the fat and lean, amount of feathering between the ribs, and color of the lean. The degree of external fatness, as such, is not considered in evaluating the quality of the lean. However, a pork carcass must have a belly with sufficient thickness to be suitable for bacon production to be considered acceptable in quality. Belly thickness is determined by an overall evaluation of its thickness, with primary consideration being given to the thickness along the navel edge and the thickness of the belly (flank) pocket.

(c) For barrow and gilt carcasses with the minimum acceptable lean quality, the cut surface of the loin eye muscle at the 10th rib will be slightly firm, have a slight amount of marbling, and be grayish pink to moderately dark red in color. For intact carcasses, minimum acceptable quality of lean is indicated by a slight amount of feathering, fat that is slightly firm, and lean that is slightly firm and grayish pink to moderately dark red in color. The belly is at least slightly thick with a minimum of 0.6 inches of thickness at any point. Barrow and gilt carcasses which meet or exceed these minimum quality requirements are eligible for one of the four numerical grades which reflect expected yields of four lean cuts. Barrow and gilt carcasses with unacceptable quality are graded U.S. Utility. Also graded U.S. Utility are carcasses which have soft and/or oily fat.

(d) Barrow and gilt carcasses which have indications of acceptable lean quality and acceptable belly thickness are placed in one of four grades, denoted by numbers 1 through 4. These grades are based entirely on the expected carcass yields of the four lean cuts, and no consideration is given to a development of quality superior to that described as minimum for these grades. The expected yields of the four lean cuts for each of these four grades are shown in Table 1.

TABLE 1—EXPECTED YIELDS OF THE FOUR LEAN CUTS, BY GRADE, BASED ON CHILLED CARCASS WEIGHT [1]

Grade	Yield
U.S. No. 1	60.4 percent and over.
U.S. No. 2	57.4 to 60.3 percent.
U.S. No. 3	54.4 to 57.3 percent.
U.S. No. 4	Less than 54.4 percent.

[1] These yields will be approximately 1 percent lower if based on hot carcass weight.

The yields shown in Table 1 are based on cutting and trimming methods used by the U.S. Department of Agriculture in developing the standards. (These cutting and trimming methods may be obtained from the Livestock Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.) Other cutting and trimming methods may result in different yields. For example, if more fat is left on the four lean cuts than prescribed in the USDA methods, the yield of each grade will be higher than indicated. However, such a method of trimming, if applied uniformly, should result in similar differences in yields between grades.

(e) The grade of a barrow or gilt carcass with acceptable lean quality and belly thickness is determined by considering two characteristics: (1) The backfat thickness over the last rib, and (2) the degree of muscling (thickness of muscling in relation to skeletal size).

(f) The amount of external fat on a barrow or gilt carcass is the major factor affecting the yield of lean cuts. As the amount of external fat increases, the yield of lean cuts decreases. An accurate evaluation of the amount of external fat may be made by measuring the backfat thickness at one or more points on the carcass. In grading barrow and gilt carcasses, the amount of external fat is considered by measuring the backfat thickness (including skin) over the last rib, perpendicular to the skin surface. The actual measurement, without adjustment, is used for the grade determination, except for carcasses from which the skin has been smoothly and evenly removed, which will have one-tenth inch added to the measurement to compensate for the loss of the skin. Carcasses which have had the skin removed in a rough, uneven manner, or which have had more than a slight amount of trimming to remove bruised or otherwise damaged parts, are ineligible for grading. The yield of four lean cuts from skinned carcasses will be higher than indicated in Table 1. Port carcasses with average fatness will usually have 1.1 to 1.2 inches of backfat over the last rib. Each one-tenth inch change in backfat thickness over the last rib changes the grade by 40 percent of a grade.

(g) The second factor considered in barrow and gilt carcass grading is the degree of muscling. The degree of muscling is determined by a subjective evaluation of the thickness of muscling in relation to skeletal size. Since the total thickness of a carcass is affected by both the amount of fat and the amount of muscle in relation to skeletal size, the fatness must also be considered when degree of muscling is evaluated. To best evaluate muscling, primary consideration is given to those parts least affected by fatness, such as the ham. In evaluating the ham for degree of muscling, consideration should be given to both the stifle and back views. The size of the lumbar lean area and the relative width through the back or loin and through the center of the ham are also good indications of muscling.

(h) In barrow and gilt carcass grading, three degrees of muscling—thick (superior), average, and thin (inferior)—are considered. In previous standards (33 FR 5081) six degrees of muscling (very thick, thick, moderately thick, slightly thin, thin, and very thin) were recognized. The current thick (superior) muscling includes only those carcasses previously classed as very thick. Current average muscling includes the previous thick and moderately thick degrees, and the current thin (inferior) muscling includes the previous slightly thin, thin, and very thin degrees. Carcasses with thick muscling and a low degree of fatness will be much thicker through the hams than through the loins and the loins will appear full and well-rounded. Thick muscled carcasses with a high degree of fatness will be slightly thicker through the hams than through the loins, will be nearly flat over the loins, and will have a slight break into the sides. Thick muscled carcasses will usually have a large lumbar lean area and greater than average depth of chine. Average muscled carcasses with a low degree of fatness will be thicker through the hams than through the loins, and the loins will appear slightly full and rounded. Carcasses with average muscling and a high degree of fatness will have about equal thickness through the hams and loins. Carcasses with thin muscling and a low degree of fatness usually are slightly thicker through the shoulders and the center of the hams than through the back and the loins will appear sloping and flat. Thin muscled carcasses with a high degree of fatness will be wider through the loins than through the hams and will have a distinct break from over the loins into the sides. Thin muscled carcasses will usually have a small lumbar lean area and less than average depth of chine.

(i) Barrow and gilt carcasses with average muscling will be graded according to their backfat thickness over the last rib. Carcasses with thin muscling will be graded one grade lower than indicated by the backfat thickness over the last rib. Carcasses with thick muscling will be graded one grade higher than indicated by their backfat thickness over the last rib except that carcasses with 1.75 inches or greater backfat thickness over the last rib must remain in the U.S. No. 4 grade.

(j) The official barrow and gilt carcass grade standards contain a mathematical equation for calculating the grade and a table for determining a preliminary grade based on the backfat thickness over the last rib. In determining the final grade all fractions are dropped, the grade is not rounded to the nearest whole number. Also, the individual grade specifications describe the various combinations of muscling and backfat thickness over the last rib which qualify for that grade.

[49 FR 48672, Dec. 14, 1984]

§ 54.135 Specifications for Official United States Standards for grades of barrow and gilt carcasses.

(a) The grade of a barrow or gilt carcass is determined on the basis of the following equation: Carcass grade = (4.0 × backfat thickness over the last rib, inches) − (1.0 × muscling score). To apply this equation, muscling should be scored as follows: thin muscling = 1, average muscling = 2, and thick muscling = 3. Carcasses with thin muscling cannot grade U.S. No. 1. The grade may also be determined by calculating a preliminary grade according to the schedule shown in Table 2, and adjusting up or down one grade for thick or thin muscling, respectively.

TABLE 2—PRELIMINARY CARCASS GRADE BASED ON BACKFAT THICKNESS OVER THE LAST RIB

Preliminary grade	Backfat thickness range
U.S. No. 1	Less than 1.00 inch.
U.S. No. 2	1.00 to 1.24 inches.
U.S. No. 3	1.25 to 1.49 inches.
U.S. No. 4	1.50 inches and over.[a]

[a] Carcasses with last rib backfat thickness of 1.75 inches or over cannot be graded U.S. No. 3, even with thick muscling.

(b) The following descriptions provide a guide to the characteristics of barrow and gilt carcasses in each grade.

(1) *U.S. No. 1.* (i) Barrow and gilt carcasses in this grade have an acceptable quality of lean and belly thickness and a high expected yield (60.4 percent and over) of four lean cuts. U.S. No. 1 barrow and gilt carcasses must have less than average backfat thickness over the last rib with average muscling, or average backfat thickness over the last rib coupled with thick muscling.

(ii) Barrow and gilt carcasses with average muscling will be graded U.S. No. 1 if their backfat thickness over the last rib is less than 1.00 inch. Carcasses with thick muscling will be graded U.S. No. 1 if their backfat thickness over the last rib is less than 1.25 inches. Carcasses with thin muscling may not be graded U.S. No. 1.

(2) *U.S. No. 2.* (i) Barrow and gilt carcasses in this grade have an acceptable quality of lean and belly thickness and an average expected yield (57.4 to 60.3 percent) of four lean cuts. Carcasses with average backfat thickness over the last rib and average muscling, less than average backfat thickness over the last rib and thin muscling, or greater than average backfat thickness over the last rib and thick muscling will qualify for this grade.

(ii) Barrow and gilt carcasses with average muscling will be graded U.S. No. 2 if their backfat thickness over the last rib is 1.00 to 1.24 inches. Carcasses with thick muscling will be graded U.S. No. 2 if their backfat thickness over the last rib is 1.25 to 1.49 inches. Carcasses with thin muscling must have less than 1.00 inch of backfat thickness over the last rib to be graded U.S. No. 2.

(3) *U.S. No. 3.* (i) Barrow and gilt carcasses in this grade have an acceptable quality of lean and belly thickness and a slightly low expected yield (54.4 to 57.3 percent) of four lean cuts. Carcasses with average muscling and more than average backfat thickness over the last rib, thin muscling and average backfat thickness over the last rib, or thick muscling and much greater than average backfat thickness over the last rib will qualify for this grade.

(ii) Barrow and gilt carcasses with average muscling will be graded U.S. No. 3 if their backfat thickness over the last rib is 1.25 to 1.49 inches. Carcasses with thick muscling will be graded U.S. No. 3 if their backfat thickness over the last rib is 1.50 to 1.74 inches. Carcasses with 1.75 inches or greater backfat thickness over the last rib cannot grade U.S. No. 3. Carcasses with thin muscling will be graded U.S. No. 3 if their backfat thickness over the last rib is 1.00 to 1.24 inches.

(4) *U.S. No. 4.* (i) Barrow and gilt carcasses in this grade have an acceptable quality of lean and belly thickness and a low expected yield (less than 54.4 percent) of four lean cuts. Carcasses in the U.S. No. 4 grade always have more than average backfat thickness over the last rib, and thick, average, or thin muscling, depending on the degree to which the backfat thickness over the last rib exceeds the average.

(ii) Barrow and gilt carcasses with average muscling will be graded U.S. No. 4 if their backfat thickness over the last rib is 1.50 inches or greater. Carcasses with thick muscling will be graded U.S. No. 4 with backfat thickness over the last rib of 1.75 inches or greater, and those with thin muscling will be graded U.S. No. 4 with 1.25 inches or greater backfat thickness over the last rib.

(5) *U.S. Utility.* All carcasses with unacceptable quality of lean or belly thickness will be graded U.S. Utility, regardless of their degree of muscling or backfat thickness over the last rib. Also, all carcasses which have soft and/or oily fat will be graded U.S. Utility.

[49 FR 48673, Dec. 14, 1984]

§ 54.136 Application of standards for grades of sow carcasses.

(a) The standards for grades of sow carcasses are based on (1) differences in yields of lean cuts and of fat cuts and (2) differences in quality of cuts. There are rather uniform differences in these characteristics from one grade to another. The U.S. No. 1 grade has about the minimum degree of finish required to produce cuts of acceptable palatability. The four major trimmed lean cuts—hams, loins, picnics, and butts—normally make up more than 48 percent of carcass weight. The U.S. No. 2 and U.S. No. 3 grades have successively higher degrees of finish resulting in lower yields of lean cuts and higher yields of fat cuts than U.S. No. 1 grade. Yields of lean cuts average 45 to 48 percent and under 45 percent of carcass weight, respectively, for U.S. No. 2 and U.S. No. 3 grades. In addition, the cuts from these grades have more fat remaining after trimming of external fat than do the cuts from U.S. No. 1 grade carcasses. Medium grade carcasses are underfinished and exhibit the lack of firmness and indications of little or no marbling (fat interspersed within the lean) associated with low palatability. Cull grade carcasses are decidedly underfinished and the pork is soft with very little evidence of marbling and is of low palatability.

(b) The standards for grades of sow carcasses apply only to carcasses with the firmness appropriate to their degree of finish. However, carcasses which are typically soft or oily as a result of feeds producing soft or oily fat may be graded in accordance with the standards provided they are identified as soft or oily along with the grade.

(c) There are differences in the bellies of sow carcasses which are peculiar to the class. Increasing numbers of litters farrowed and raised by a sow result in greater development of mammary tissue and increasing roughness of the belly along the teat line with accompanying seediness. In addition, when pigs were weaned only a short time before the sow was slaughtered the mammary tissue still contains milk and the bellies are commonly termed "wet". However, the smoothness or dryness of bellies has little appreciable effect on the basic grade determining factors and the standards contain no provision for altering the grade of a sow carcass due to these belly characteristics. Rather than forming a part of the basis for grade, it is the intent of the standards that smoothness and dryness of bellies should be a separate consideration used in conjunction with grade, weight, and other factors in evaluating sow carcasses.

(d) Average back fat thickness measurements provide a reliable indication of the yields of cuts and the quality of cuts which determine the grade of sow carcasses. Therefore, indication of a specific range in back fat thickness for each grade forms a part of the standards for grade. Analysis of measurement and cutting data for sow carcasses reveals that yields of cuts are approximately equal in carcasses which are equal in fat thickness but widely different in weight. Thus, to maintain comparable yields in a grade at all weights, back fat thickness requirements for a grade are the same at all weights. This is in contrast to the standards for barrows and gilts, in which the fat thickness for a grade increases for heavier or longer carcasses in order to maintain yields of cuts. With practice in the grading operation, visual estimates of fat thickness may often replace actual measurements with satisfactory accuracy. The following table of measurements provides an objective guide in determining the grade of sow carcasses.

Grade	*Average back fat thickness* [1]
U. S. No. 1	1.5 to 1.9 inches.
U. S. No. 2	1.9 to 2.3 inches.
U. S. No. 3	2.3 or more inches.
Medium	1.1 to 1.5 inches.
Cull	Less than 1.1 inches

[1] Average of three measurements, skin included, made opposite first and last ribs and the last lumbar vertebra.

(e) In addition to the measurement guides to grade, the standards also include descriptive specifications outlining the characteristics of sow carcasses typical of the minimum degree of finish for each grade. Average back fat thickness is a major factor in grading, but more accurate appraisal of yields of cuts and quality of cuts is achieved in borderline cases by consideration of thickness of muscling, conformation of the major cuts, uniformity of fleshing and finish firmness, and indications of marbling. However, in no case may the final grade of a carcass be more than one-half the width of a grade different from that indicated by average back fat thickness.

(f) The standards describe rather typical carcasses of each grade, and no attempt is made to describe the numerous combinations of characteristics that may qualify a carcass for a particular grade.

§ 54.137 Specifications for official United States standards for grades of sow carcasses.

(a) *U.S. No. 1 grade.* U.S. No. 1 grade sow carcasses have about the minimum degree of finish required to produce pork cuts of acceptable palatability. Meatiness and yield of lean cuts from carcass weight are slightly high. Yield of fat cuts is slightly low. The ratio of total lean and fat to bone is slightly high. Carcasses with the minimum finish required for U.S. No. 1 grade are moderately long and slightly wide in relation to weight. The back and loins are moderately full and thick with a well-rounded appearance. Hams are usually moderately thick and plump and are slightly full in the lower part toward the hock. Bellies are moderately long, slightly thick, and moderately uniform in thickness with a slightly thick belly pocket. Shoulders are slightly thick and full. Carcasses are usually moderately well-balanced and moderately uniform in fleshing and finish. There are moderate quantities of interior fat in the pelvic area, a slightly thin but moderately extensive layer of fat lining the inside surface of the ribs, and a slightly small quantity of feathering, or fat intermingled with the lean between the ribs. The lean is firm. Both exterior and interior fats are firm, white, and of excellent quality. Carcasses with back fat thickness qualifying them for the fatter one-half of the U.S. No. 1 grade but with thin muscling in the major cuts, uneven fleshing and finish, or thick and uneven bellies shall be graded U.S. No. 2. Carcasses with back fat thickness qualifying them for the thinner one-half of the U.S. No. 1 grade but with only a moderately thin and incomplete rib lining, a moderately small quantity of feathering, slightly thin bellies with moderately thin belly pockets, and moderately soft lean and fat shall be graded Medium.

(b) *U.S. No. 2 grade.* U.S. No. 2 grade sow carcasses have a higher degree of finish than the minimum required to produce pork cuts of acceptable palatability. Meatiness and yield of lean cuts from carcass weight are slightly low. Yield of fat cuts is slightly high. The ratio of total lean and fat to bone is moderately high. Carcasses with the minimum finish required for U.S. No. 2 grade are slightly short and moderately wide in relation to weight. The back and loins are full and thick and are especially full near the edges. Hams are usually thick and plump and are moderately full in the lower part toward the hock. Bellies are slightly short, moderately thick, and rather uniform in thickness with a moderately thick belly pocket. Shoulders are moderately thick and full. Carcasses are usually well-balanced and uniform in fleshing and finish. There are slightly large quantities of interior fat in the pelvic area, a slightly thick and rather extensive layer of fat lining the inside surface of the ribs, and moderate feathering. The lean is firm. Both exterior and interior fats are firm, white, and of excellent quality. Carcasses with back fat thickness qualifying them for the fatter one-half of the U.S. No. 2 grade but with thin muscling in the major cuts uneven fleshing and finish, or very thick and uneven bellies shall be graded U.S. No. 3. Carcasses with back fat thickness qualifying them for the thinner one-half of the U.S. No. 2 grade but with thick muscling in the major cuts, well-balanced fleshing and uniform finish and slightly thick bellies shall be graded U.S. No. 1.

(c) *U.S. No. 3 grade.* U.S. No. 3 grade sow carcasses have a decidedly higher degree of finish than the minimum required to produce pork cuts of acceptable palatability. Meatiness and yield of lean cuts from carcass weight are low. Yield of fat cuts is high. The ratio of total lean and fat to bone is high. Carcasses with the minimum finish required for U.S. No. 3 grade are short and wide in relation to weight. The back and loins are very full and thick and are decidedly full at the edges. Hams are usually very thick and plump and are full in the lower part toward the hock due to a thick fat covering. Bellies are short and thick and uniform in thickness with a thick belly pocket. Shoulders are thick and full. Carcasses are usually well-balanced and uniform in fleshing and finish. There are large quantities of interior fat in the pelvic area, a moderately thick and extensive layer of fat lining the inside surface of the ribs, and slightly abundant feathering. The lean is firm. Both exterior and interior fats are firm, white, and of excellent quality. Carcasses with back fat thickness indicative of nearly minimum finish for the U.S. No. 3 grade but with thick muscling in the major cuts, well-balanced fleshing and uniform finish, and moderately thick bellies shall be graded U.S. No. 2.

(d) *Medium grade.* Medium grade sow carcasses have a lower degree of finish than the minimum required to produce pork cuts of acceptable palatability. Yield of lean cuts from carcass weight is moderately high. Yield of fat cuts is moderately low. The ratio of total lean and fat to bone is moderately low. Carcasses with the minimum finish required for Medium grade are long and rather narrow in relation to weight. The back and loins are rather thin, lack fullness, and slope away from the center. Hams are usually slightly thin, lack plumpness, and taper toward the hock. Bellies are long and moderately thin and are somewhat uneven in thickness with a thin belly pocket. Shoulders are moderately thin and flat. Carcasses tend to be uneven and lack uniformity of fleshing and finish. There are slightly small quantities of interior fat in the pelvic area, a thin and incomplete layer of fat lining the inside surface of the ribs, and only a small quantity of feathering. The lean is moderately soft with little evidence of marbling. Both exterior and interior fats are moderately soft, white to creamy white, and of moderately low quality. Carcasses with back fat thickness qualifying them for the fatter one-half of the Medium grade that are firm and have slightly thick bellies and belly pockets, a slightly thin but moderately extensive rib lining, and a slightly small quantity of feathering shall be graded U.S. No. 1. Carcasses with back fat thickness qualifying them for the thinner one-half of the Medium grade but with little or no rib lining and feathering, thin bellies and very thin belly pockets, and soft lean and fat shall be graded Cull.

(e) *Cull grade.* Cull grade sow carcasses have a decidedly lower degree of finish than the minimum required to produce pork cuts of acceptable palatability. Yield of lean cuts from carcass weight is high. Yield of fat cuts is low. The ratio of total lean and fat to bone is low. Carcasses with the degree of finish typical of the Cull grade are long and narrow in relation to weight. The back and loins are thin and decidedly lacking in fullness with a definite slope toward the sides. Hams are usually thin and flat and taper toward the hock. Bellies are very long and thin and are uneven in thickness with a very thin belly pocket. Shoulders are thin and flat. Carcasses tend to be uneven and lack uniformity of fleshing and finish. There are only small quantities of interior fat in the pelvic area, little or no fat lining the inside surface of the ribs, and scant feathering. The lean is soft and watery with very little evidence of marbling. Both exterior and interior fats are soft, creamy white to white, and of low quality. Carcasses with back fat thickness indicative of nearly maximum finish for the Cull grade that are only moderately soft and have moderately thin bellies and belly pockets, a thin and incomplete rib lining, and a small quantity of feathering shall be graded Medium.

PART 55—VOLUNTARY INSPECTION OF EGG PRODUCTS AND GRADING

Subpart A—Inspection and Grading of Egg Products

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AUTHORITY: Secs. 202-208 of the Agricultural Marketing Act of 1946, as amended (60 Stat. 1087-1091; 7 U.S.C. 1621-1627).

SOURCE: 36 FR 11795, June 19, 1971, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977 and at 46 FR 63203, Dec. 31, 1981.

EDITORIAL NOTE: Nomenclature changes to Part 55 appear at 37 FR 8059, Apr. 25, 1972; 42 FR 32514, June 27, 1977; and at 46 FR 63203, Dec. 31, 1981.

Subpart A—Inspection and Grading of Egg Products

DEFINITIONS

§ 55.1 Meaning of words.

Under the regulations in this part words in the singular shall be deemed to import the plural and vice versa, as the case may demand.

§ 55.2 Terms defined.

For the purpose of the regulations in this part, unless the context otherwise requires, the following terms shall be construed, respectively:

"Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U.S.C. 1621 et seq.), or any other Act of Congress conferring like authority.

"Administrator" means the Administrator of the Agricultural Marketing Service (AMS) of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated the authority to act in his stead.

"Applicant" means any interested party who requests any grading or inspection service, or appeal grading or appeal inspection, with respect to any product.

"Chief of the Grading Branch" means the Chief of the Poultry Grading Branch, Poultry Division, Agricultural Marketing Service.

"Class" means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind, species, or method of processing.

"Condition" means any condition (including, but not being limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food) of any product which affects its merchantability; or any condition, including, but not being limited to, the processing, handling, or packaging which affects such product.

"Department" means the U.S. Department of Agriculture.

"Eggs of Current Production" means shell eggs which have moved through the usual marketing channels since the time they were laid and are not in excess of 60 days old.

"Holiday" or "Legal holiday" shall mean the legal public holidays specified by the Congress in paragraph (a) of section 6103, Title 5, of the United States Code.

"Inspection/grading" means (1) the act of determining, according to the regulations, the class, quality, quantity, or condition of any product by examining each unit thereof or a representative sample drawn by a grader; (2) the act of issuing a certificate; or (3) the act of identifying, when requested by the applicant, any product by means of official identification pursuant to the Act and this part.

"Inspection and grading certificate" or "certificate" means a statement, either written or printed, issued by a grader or inspector pursuant to the Act and this part, relative to the class, quality, quantity, and condition of products.

"Inspector/grader" means any employee of the Department authorized by the Secretary, or any other person to whom a license has been issued by the Secretary, to investigate and certify, in accordance with the Act and this part, to shippers of products and other interested parties the class, quality, quantity, and condition of such products.

"Interested party" means any person financially interested in a transaction involving any grading, inspection, or appeal grading or inspection of any product.

"National Supervisor" means (1) the officer in charge of the service of AMS, and (2) such other employee of AMS as may be designated by him.

"Office of grading" means the office of any grader or inspector.

"Official plant" means any plant in which the facilities and methods of operation therein have been found by the Administrator to be suitable and adequate for grading service or inspection in accordance with this part and in which such service is carried on.

"Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

"Product" or "products" means eggs (whether liquid, frozen, or dried), egg products and any food product which is prepared or manufactured and contains eggs as an ingredient.

"Quality" means the inherent properties of any product which determine its relative degree of excellence.

"Regional Director" means any employee of the Department in charge of the service in a designated geographical area.

"Regulations" means the provisions in this part.

"Sampling" means the act of taking samples of any product for grading or inspection.

"Secretary" means the Secretary of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

"Service" means (1) any grading or inspection, in accordance with the Act and the regulations in this part, of any product, (2) supervision, in any official plant, of the preparation or packaging of any product, or (3) any appeal grading or appeal inspection of any previously graded or inspected product.

"Shell eggs" means the shell eggs of the domesticated chicken, turkey, duck, goose, and guinea.

[36 FR 11795, June 19, 1971, as amended at 36 FR 19301, Oct. 2, 1971; 37 FR 17816, Sept. 1, 1972. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60137, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46069, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

§ 55.5 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Pub. L. 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said Act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, used under this part to certify with respect to the sampling, inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this part and any report made by an authorized person of services performed pursuant to this part.

(c) "Official mark" means the grade mark, inspection mark, and any other mark or symbol formulated pursuant to the regulations in this part, stating that the product was graded or inspected, or for the purpose of maintaining the identity of the product.

(d) "Official identification" means any United States (U.S.) standard designation of class, grade, quality, size, quantity, or condition specified in this part or any symbol, stamp, label, or seal indicating that the product has been officially graded or inspected and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) "Official device" means a printed label, or other method as approved by the Administrator for the purpose of applying any official mark or other identification to any product of the packaging material thereof.

ADMINISTRATION

§ 55.10 Authority.

The Administrator shall perform, for and under the supervision of the Secretary, such duties as the Secretary may require in the enforcement or administration of the provisions of the Act and this part. The Administrator is authorized to waive for a limited period any particular provisions of the regulations in this part to permit experimentation so that new procedures, equipment, and processing techniques may be tested to facilitate definite improvements and at the same time to determine full compliance with the spirit and intent of the regulations in this part. The Agricultural Marketing Service and its officers and employees shall not be liable in damages through acts of commission or omission in the administration of this part.

[42 FR 2969, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 55.11 Nondiscrimination.

The conduct of all services and the licensing of graders and inspectors under these regulations shall be accomplished without discrimination as to race, color, religion, sex, or national origin.

[40 FR 20055, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]]

GENERAL

§ 55.20 Kinds of services available.

The regulations in this part provide for the following kinds of services:

(a) Inspection of the processing of products containing eggs in official plants.

(b) Sampling and laboratory analysis of products.

(c) Quantity and condition inspection of products.

(d) Laboratory analysis of samples (with or without added ingredients) of products which are submitted to the laboratory by the applicant.

§ 55.22 Where service is offered.

Any product may be graded or inspected wherever a grader or inspector is available and the facilities and the conditions are satisfactory for the conduct of the service.

§ 55.24 Basis of service.

(a) Products shall be graded or inspected in accordance with such standards, methods, and instructions as may be issued or approved by the Administrator. All service shall be subject to supervision at all times by the applicable State supervisor, egg products supervisor, Regional Director, and National Supervisor. Whenever the supervisor of a grader or inspector has evidence that such grader or inspector incorrectly graded or inspected a product, such supervisor shall take such action as is necessary to correct the grading or inspection and to cause any improper official identification which appears on the product or containers thereof to be corrected prior to shipment of the product from the place of the initial grading or inspection.

(b) Whenever service is performed on a sample basis, such sample shall be drawn in accordance with the instructions as issued by the Administrator.

§ 55.25 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection requirements by the Office of Management and Budget contained in 7 CFR Part 55 pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511.

(b) *Display.*

7 CFR section where identified and described	Current OMB control number
Sec:	
55.10	0581-0146
55.24(a)	0581-0146
55.30(a)	0581-0146
55.40	0581-0146
55.50	0581-0146
55.60	0581-0146
55.90(b)	0581-0146
55.95(b)	0581-0146
55.96	0581-0146
55.120	0581-0146
55.130(a)	0581-0146
55.130(b)	0581-0146
55.130(c)	0581-0146
55.140	0581-0146
55.150	0581-0146
55.160	0581-0146
55.200(a)	0581-0146
55.240	0581-0146
55.300	0581-0146
55.340(c)	0581-0146
55.350	0581-0146
55.370(a)	0581-0146
55.380	0581-0146
55.390	0581-0146
55.400	0581-0146
55.420	0581-0146
55.560(a)(1)	0581-0146
55.560(b)(1)	0581-0146
55.560(b)(3)(ii)	0581-0146
55.600	0581-0146

[49 FR 2880, Jan. 24, 1984]

PERFORMANCE OF SERVICES

§ 55.30 Licensed graders and inspectors.

(a) Any person who is a Federal or State employee, the employee of a local jurisdiction, or the employee of a cooperating agency possessing proper qualifications as determined by an examination for competency and who is to perform grading service under this part, may be licensed by the Secretary as a grader or inspector.

(b) All licenses issued by the Secretary are to be countersigned by the officer-in-charge of the service of the Agricultural Marketing Service or by any other official of AMS designated by such officer.

(c) No person may be licensed to grade or inspect any product in which he is financially interested.

[36 FR 11795, June 19, 1971, as amended at 37 FR 12918, June 30, 1972. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 55.40 Suspension of license; revocation.

Pending final action by the Secretary, any person authorized to countersign a license to perform service may, whenever he deems such action necessary to assure that any grading or inspection services are properly performed, suspend any license to perform grading or inspection service issued pursuant to this part, by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within 7 days after the receipt of the aforesaid notice and statement of reasons, the licensee may file an appeal in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be further suspended or revoked. After the expiration of the aforesaid 7-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 7 days, the license to perform grading or inspection service is revoked.

§ 55.50 Cancellation of license.

Upon termination of his services as a grader or inspector, each licensee shall surrender his license immediately for cancellation.

§ 55.60 Surrender of license.

Each license which is canceled, suspended, or revoked shall immediately be surrendered by the licensee to the office of the service in the region in which he is located.

§ 55.70 Identification.

All graders, inspectors, and supervisors shall have in their possession at all times while on duty and present upon request the means of identification furnished by the Department to such person.

§ 55.80 Political activity.

All graders and inspectors are forbidden during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate is prohibited, except as authorized by law or regulation of the Department. This applies to all appointees, including, but not being limited to, temporary and cooperative employees and employees on leave of absence with or without pay. Willful violation of this section will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

[36 FR 11795, June 19, 1971, as amended at 42 FR 2969, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 55.90 Authority and duties of inspectors performing service on a resident inspection basis.

(a) Each inspector is authorized:

(1) To make such observations and inspections as he deems necessary to enable him to certify that products have been prepared, processed, stored, and otherwise handled in conformity with the regulations in this part;

(2) To supervise the marking of packages containing products which are eligible to be identified with official identification;

(3) To retain in his custody, or under his supervision, labels with official identification, marking devices, samples, certificates, seals, and reports of inspectors;

(4) To deface or remove, or cause to be defaced or removed under his personal supervision, any official identification from any package containing products whenever he determines that such products were not processed in accordance with the regulations in this part or are not fit for human food;

(5) To issue a certificate upon request on any product processed in the official plant; and

(6) To use retention tags or other devices and methods as may be approved by the Administrator for the identification and control of products which are not in compliance with the regulations in this part or are held for further examination, and any equipment, utensils, rooms or compartments which are found to be unclean or otherwise in violation of any of the regulations in this part. No product, equipment, utensil, room or compartment shall be released for use until it has been made acceptable. Such identification shall not be removed by anyone other than inspector or grader.

(b) Each inspector shall prepare such reports and records as may be prescribed by the officer-in-charge of the service.

[36 FR 11795, June 19, 1971, as amended at 42 FR 2969, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 55.95 Facilities to be furnished for use of graders and inspectors in performing service on a resident inspection basis.

(a) Facilities for proper sampling, weighing, and examination of products shall be furnished by the official plant for use by inspectors and graders. Such facilities shall include a candling light, a heavy duty, high speed (not less than 1,000 r.p.m. under load) drill with an eleven-sixteenths inch or larger bit of sufficient length to reach the bottom of a 30-pound can of frozen product, a non-breakable thermometer, and a satisfactory test kit for determining the bactericidal strength.

(b) Furnished office space and equipment, including but not being limited to, a desk (equipped with a satisfactory locking device), lockers or cabinets suitable for the protection and storage of supplies and with facilities suitable for inspectors and graders to change clothing. Such space and equipment must meet the approval of the State supervisor.

§ 55.96 Schedule of operation of official plants.

Grading operating schedules for services performed pursuant to § 55.560 shall be requested in writing and be approved by the Administrator. Normal operating schedules for a full week consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week, within the administrative workweek, Sunday through Saturday, for each shift required. Less than 8-hour schedules may be requested and will be approved if a grader is available. Clock hours of daily operations need not be specified in the request, although as a condition of continued approval, the hours of operation shall be reasonably uniform from day to day. Graders are to be notified by management 1 day in advance of any change in the hours grading service is requested.

[48 FR 20682, May 9, 1983]

APPLICATION FOR SERVICE

§ 55.100 Who may obtain service.

(a) An application for service may be made by any interested person, including, but not being limited to, the United States, any State, county, municipality, or common carrier, and any authorized agent of the foregoing.

(b) Where service is offered: Any product may be graded or inspected, wherever a grader or inspector is available and the facilities and the conditions are satisfactory for the conduct of the service.

§ 55.120 Authority of applicant.

Proof of the authority of any person applying for any service may be required at the discretion of the Administrator.

§ 55.130 How application for service may be made; conditions of resident service.

(a) *On a fee basis.* An application for any service may be made in any office of grading, or with any grader or inspector at or nearest the place where the service is desired. Such application for service may be made orally (in person or by telephone), in writing or by telegraph. If an application for grading service is made orally, the office of grading, grader or inspector with whom such application is made, or the Administrator may require that the application be confirmed in writing.

(b) *On a resident inspection basis.* An application for inspection on a resident inspection basis to be rendered in an official plant must be made in writing on forms approved by the Administrator and filed with the Administrator. Such forms may be obtained at the national, regional, or State grading office. In making application, the applicant agrees to comply with the terms and conditions of the regulations in this part (including, but not being limited to, such instructions governing grading and inspection of products as may be issued from time to time by the Administrator). No member of or delegate to Congress or Resident Commissioner, shall be admitted to any benefit that may arise from such service unless derived through service rendered a corporation for its general benefit.

(c) *Form of application.* Each application for grading or inspecting a specified lot of any product shall include such information as may be required by the Administrator in regard to the product and the premises where such product is to be graded or inspected.

§ 55.140 Application for inspection in official plants; approval.

Any person desiring to process products under inspection service must receive approval of such plant and facilities as an official plant prior to the installation of such service. The initial survey, drawings, and specifications to be submitted, changes and revisions in the official plant, and final survey and procedure for plant approval shall be in accordance with and conform with the applicable provisions of § 59.146 of this chapter, regulations governing the inspection of eggs and egg products.

[40 FR 20055, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 55.150 When application may be rejected.

Any application for service may be rejected by the Administrator (a) whenever the applicant fails to meet the requirements of the regulations in this part prescribing the conditions under which the service is made available; (b) whenever the product is owned by or located on the premises of a person currently denied the benefits of the Act; (c) where any individual holding office or a responsible position with or having a substantial financial interest or share in the applicant is currently denied the benefits of the Act or was responsible in whole or in part for the current denial of the benefits of the Act to any person; (d) where the Administrator determines that the application is an attempt on the part of a person currently denied the benefits of the Act to obtain service; (e) whenever the applicant, after an initial survey has been made in accordance with § 55.140, fails to bring the plant, facilities, and operating procedures into compliance with the regulations in this part within a reasonable period of time; (f) notwithstanding any prior approval whenever, before inauguration of service, the applicant fails to fulfill commitments concerning the inauguration of the service; (g) when it appears that to perform the services specified in this part would not be to the best interests of the public welfare or of the Government; or (h) when it appears to the Administrator that prior commitments of the Department necessitate rejection of the application. Each such applicant shall be promptly notified by registered mail of the reasons for the rejection. A written petition for reconsideration of such rejection may be filed by the applicant with the Administrator if postmarked or delivered within 10 days after receipt of notice of the rejection. Such petition shall state specifically the errors alleged to have been made by the Administrator in rejecting the application. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall approve the application or notify the applicant by registered mail of the reasons for the rejection thereof.

[36 FR 11795, June 19, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, as amended at 47 FR 46069, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

§ 55.160 When application may be withdrawn.

An application for service may be withdrawn by the applicant at any time before the service is performed upon payment, by the applicant, of all expenses incurred by AMS in connection with such application.

§ 55.170 Order of service.

Service shall be performed, insofar as practicable, in the order in which applications therefor are made except that precedence may be given to any application for an appeal.

[36 FR 11795, June 19, 1971, as amended at 42 FR 2969, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 55.180 Suspension of plant approval.

(a) Any plant approval pursuant to the regulations in this part may be suspended for (1) failure to maintain plant and equipment in a satisfactory state of repairs; (2) the use of operating procedures which are not in accordance with the regulations in this part; or (3) alterations of buildings, facilities, or equipment which cannot be approved in accordance with the regulations in this part.

(b) During such period of suspension, inspection service shall not be rendered. However, the other provisions of the regulations in this part pertaining to providing service on a resident basis will remain in effect unless service is terminated in accordance with the terms thereof. If the plant facilities or methods of operation are not brought into compliance within a reasonable period of time to be specified by the Administrator, the application and service shall be terminated. Upon termination of service in an official plant pursuant to the regulations in this part, the plant approval shall also become terminated and all labels, seals, tags, or packaging material bearing official identification shall, under the supervision of a person designated by the Administrator, either be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the Department.

DENIAL OF SERVICE

§ 55.200 Debarment.

(a) The following acts or practices or the causing thereof may be deemed sufficient cause for the debarment by the Administrator, of any person, including any agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the Act for a specified period. The rules of practice governing withdrawal of inspection and grading services in formal adjudicatory proceedings instituted by the Secretary (7 CFR, Part 1, Subpart H) shall be applicable to such a debarment action:

(1) *Misrepresentation, deceptive, or fraudulent act or practice.* Any willful misrepresentation or any deceptive or fraudulent act or practice found to be made or committed by any person in connection with:

(i) The making or filing of an application for any service or appeal;

(ii) The making of the product accessible for sampling, grading or inspection;

(iii) The making, issuing or using or attempting to issue or use any certificate, symbol, stamp, label, seal, or identification authorized pursuant to the regulations in this part;

(iv) The use of the terms "United States," "U.S.," "Government Graded," "Federal-State Graded," "U.S. Inspected," "Government Inspected," or terms of similar import in the labeling or advertising of any product;

(v) The use of any official stamp, symbol, label, seal, or identification in the labeling or advertising of any product.

(2) *Use of facsimile forms.* Using or attempting to use a form which simulates in whole or in part any certificate, symbol, stamp, label, seal, or identification authorized to be issued or used under the regulations in this part.

(3) *Willful violation of the regulations.* Any willful violation of the regulations in this part or the Act.

(4) *Interfering with a grader, inspector, or employee of AMS.* Any interference with or obstruction or any attempted interference or obstruction of or assault upon any grader, licensee, inspector or employee of AMS in the performance of his duties. The giving or offering, directly or indirectly, of any money, loan, gift, or anything of value to an employee of AMS, or the making or offering of any contribution to or in any way supplementing the salary, compensation or expenses of an employee of AMS, or the offering or entering into a private contract or agreement with an employee of AMS for any services to be rendered while employed by AMS.

(5) *Miscellaneous.* The existence of any of the conditions set forth in § 55.150 constituting the basis for the rejection of an application for grading or inspection service.

[36 FR 11795, June 19, 1971. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60137, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 55.220 Other applicable regulations.

Compliance with the regulations in this part shall not excuse failure to comply with any other Federal or any State or municipal applicable laws or regulations.

§ 55.240 Report of violations.

Each grader and inspector shall report, in the manner prescribed by the Administrator, all violations and noncompliance under the Act and this part of which such grader or inspector has knowledge.

§ 55.260 Reuse of containers bearing official identification prohibited.

The reuse, by any person, of containers bearing official identification is prohibited unless such identification is applicable in all respects to product being packed therein. In such instances, the container and label may be used provided the packaging is accomplished under the supervision of an inspector or grader and the container is in clean, sound condition and lined with a suitable inner liner.

IDENTIFYING AND MARKING PRODUCTS

§ 55.300 Approval of official identification.

Labeling procedures, required information on labels, and method of label approval, shall be in accordance with and conform with the applicable provisions of § 59.411 of this chapter, regulations governing the inspection of eggs and egg products, except where "egg product(s)" is used in § 59.411, the word "product(s)" shall be substituted and used for this Part 55.

[40 FR 20055, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 55.310 Form of official identification symbol and inspection mark.

(a) The shield set forth in Figure 1, containing the letters "USDA," shall be the official identification symbol for the purposes of this part and when used, imitated, or simulated in any manner in connection with a product shall be deemed to constitute a representation that the product has been officially inspected for the purpose of § 55.5.

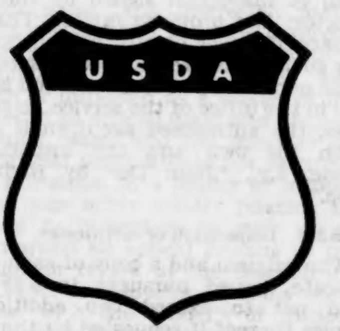

FIGURE 1.

(b) The inspection marks which are permitted to be used on products shall be contained within the outline of a shield and with the wording and design set forth in Figure 2 of this section, except the plant number may be omitted from the official identification if applied elsewhere on the container.

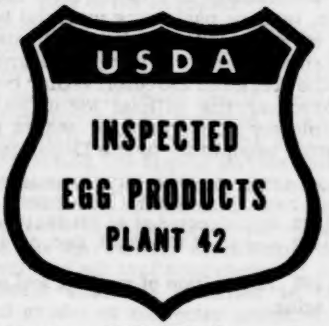

FIGURE 2.

[36 FR 11795, June 19, 1971, as amended at 40 FR 20055, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 55.320 Products that may bear the inspection mark.

Products which are permitted to bear the inspection mark shall be processed in an official plant from edible shell eggs or other edible egg products eligible to bear the inspection mark and may contain other edible ingredients. The official mark, when used, shall be printed or lithographed and applied as a part of the principal display panel of the container, but shall not be applied to a detachable cover.

§ 55.330 Unauthorized use or disposition of approved labels.

(a) Containers or labels which bear official identification approved for use pursuant to § 55.300 shall be used only for the purpose for which approved. Any unauthorized use or disposition of approved containers or labels which bear any official identification may result in cancellation of the approval and denial of the use of containers or labels bearing official identification or denial of the benefits of the Act pursuant to the provisions of § 55.200;

(b) The use of simulations or imitations of any official identification by any person is prohibited;

(c) Upon termination of inspection service in an official plant pursuant to the regulations in this part, all labels, seals, tags, or packaging material bearing official identification shall, under the supervision of a person designated by the Regional Director, either be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the Department.

[36 FR 11795, June 19, 1971, as amended at 40 FR 20055, May 8, 1975; 42 FR 2969, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 55.340 Supervision of marking and packaging.

(a) *Evidence of label approval.* No grader or inspector shall authorize the use of official identification on any inspected product unless he has on file evidence that such official identification or packaging material bearing such official identification has been approved in accordance with the provisions of § 55.300.

(b) *Affixing of official identification.* No official identification may be affixed to or placed on or caused to be affixed to or placed on any product or container thereof except by a grader or inspector or under the supervision of a grader or inspector or other person authorized by the Administrator. All such products shall have been inspected in accordance with the regulations in this part. The grader or inspector shall have supervision over the use and handling of all material bearing any official identification.

(c) *Labels for products sold under Government contract.* The grader or inspector-in-charge may approve labels for containers of product sold under a contract specification to governmental agencies when such product is not offered for resale to the general public: *Provided,* That the contract specifications include complete specific requirements with respect to labeling, and are made available to the grader or inspector.

§ 55.350 Accessibility of product.

Each product for which service is requested shall be so placed as to disclose fully its class, quality, quantity, and condition as the circumstances may warrant.

§ 55.360 Certificates.

Certificates (including appeal certificates) shall be issued on forms approved by the Administrator.

§ 55.370 Certificate issuance.

(a) *Resident service.* Certificates will be issued only upon a request therefor by the applicant or AMS. When requested, an inspector shall issue a certificate covering product inspected by him. In addition, an inspector may issue a certificate covering product inspected in whole or in part by another inspector when the inspector has knowledge that the product is eligible for certification based on personal examination of the product or official inspection records.

(b) *Other than resident service.* Each inspector shall, in person or by his authorized agent, issue a certificate covering each product inspected by him. An inspector's name may be signed on a certificate by a person other than the inspector, if such person has been designated as the authorized agent of such inspector by the National Supervisor: *Provided,* That the certificate is prepared from an official memorandum of inspection signed by the inspector: *And provided further,* That a notarized power of attorney authorizing such signature has been issued to such person by the inspector and is on file in the office of the service. In such case, the authorized agent shall sign both his own and the inspector's name, e.g., "John Doe by Richard Roe."

§ 55.380 Disposition of certificates.

The original and a copy of each certificate, issued pursuant to § 55.370 and not to exceed two additional copies thereof if requested by the applicant prior to issuance, shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. Other copies shall be filed and retained in accordance with the disposition schedule for inspection program records.

[36 FR 11795, June 19, 1971. Redesignated at 42 FR 32514, June 27, 1977 and at 46 FR 63203, Dec. 31, 1981, as amended at 47 FR 46069, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

§ 55.390 Advance information.

Upon request of an applicant, all or part of the contents of any certificate issued to such applicant may be telephoned or telegraphed to him, or to any person designated by him, at his expense.

APPEALS

§ 55.400 Who may request an appeal grading or inspection or review of a grader's or inspector's decision.

An appeal grading or inspection may be requested by any interested party who is dissatisfied with the determination by a grader or inspector of the class, quality, quantity, or condition of any product, as evidenced by the USDA inspection mark and accompanying label, or as stated on a certificate and a review may be requested by the operator of an official plant with respect to a grader's or inspector's decision or on any other matter related to grading or inspection in the official plant.

§ 55.410 Where to file an appeal.

(a) *Appeal from resident grader's or inspector's grading or decision in an official plant.* Any interested party who is not satisfied with the determination of the class, quality, quantity, or condition of product which was graded or inspected by a grader or inspector in an official plant and has not left such plant, and the operator of any official plant who is not satisfied with a decision by a grader or inspector on any other matter relating to grading or inspection in such plant may request an appeal grading or inspection or review of the decision by the grader or inspector by filing such request with the grader's or inspector's immediate supervisor.

(b) *All other appeal requests.* Any interested party who is not satisfied with the determination of the class, quality, quantity, or condition of product which has left the official plant where it was graded or inspected or which was graded or inspected other than in an official plant may request an appeal grading or inspection by filing such request in the regional office where the product is located or with the Chief of the Grading Branch.

§ 55.420 How to file an appeal.

Any request for an appeal grading or inspection or review of a grader's or inspector's decision may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the reasons for requesting the appeal service and a description of the product, or the decision which is questioned. If such appeal request is based on the results stated on an official certificate, the original and all available copies of the certificate shall be returned to the appeal grader or inspector assigned to make the appeal grading or inspection.

§ 55.430 When an application for an appeal grading or inspection may be refused.

When it appears to the official with whom an appeal request is filed that the reasons given in the request are frivolous or not substantial, or that the condition of the product has undergone a material change since the original grading or inspection, or that the original lot has changed in some manner, or the Act or the regulations in this part have not been complied with, the applicant's request for the appeal grading or inspection may be refused. In such case, the applicant shall be promptly notified of the reason(s) for such refusal.

§ 55.440 Who shall perform the appeal.

(a) An appeal grading or inspection or review of a decision requested under § 55.410(a) shall be made by the grader's or inspector's immediate supervisor or by a licensed grader or inspector assigned by the immediate supervisor other than the grader or inspector whose grading or inspection or decision is being appealed.

(b) Appeal gradings or inspections requested under § 55.410(b) shall be performed by a grader or inspector other than the grader or inspector who originally graded or inspected the product.

(c) Whenever practical, an appeal grading or inspection shall be conducted jointly by two graders or inspectors. The assignment of the grader(s) or inspector(s) who will make the appeal grading or inspection under § 55.410(b) shall be made by the Regional Director or the Chief of the Grading Branch.

§ 55.450 Procedures for selecting appeal samples.

(a) *Laboratory analyses.* The appeal sample shall consist of product taken from the original sample containers plus an equal number of containers selected at random. When the original sample containers cannot be located, the appeal sample shall consist of product taken at random from double the number of original sample containers.

(b) *Condition inspection.* The appeal sample shall consist of product taken from the original sample containers plus an equal number of containers selected at random. A condition appeal cannot be made unless all originally sampled containers are available.

§ 55.460 Appeal certificates.

Immediately after an appeal grading or inspection is completed, an appeal certificate shall be issued to show that the original grading or inspection was sustained or was not sustained. Such certificate shall supersede any previously issued certificate for the product involved and shall clearly identify the number and date of the superseded certificate. The issuance of the appeal certificate may be withheld until any previously issued certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Government. When the appeal grader or inspector assigns a different class or quantity designation to the lot, the labeling shall be corrected.

FEES AND CHARGES

§ 55.500 Payment of fees and charges.

(a) Fees and charges for any service shall be paid by the interested party making the application for such service, in accordance with the applicable provisions of this section and §§ 55.510 through 55.560, both inclusive. If so required by the grader or inspector, such fees and charges shall be paid in advance.

(b) Fees and charges for any service shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by check, draft, or money order payable to the Agricultural Marketing Service and remitted promptly to AMS.

(c) Fees and charges for any service under a cooperative agreement with any State or person shall be paid in accordance with the terms of such cooperative agreement.

[36 FR 11795, June 19, 1971, as amended at 42 FR 2969, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 55.510 Fees and charges for services other than on a continuous resident basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service (other than for an appeal) performed, in accordance with this part on a fee basis shall be based on the applicable rates specified in §§ 55.510 through 55.560, both inclusive.

(b) Fees for product inspection and sampling for laboratory analysis will be based on the time required to perform the services. The hourly charge shall be $21.88 and shall include the time actually required to perform the sampling and inspection, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $23.68 per hour. Information on legal holidays is available from the Supervisor.

(d) The cost of an appeal grading, inspection, laboratory analysis, or review of a grader's or inspector's decision shall be borne by the appellant at an hourly rate of $19.92 for time spent performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading, inspection, laboratory analysis, or review of a grader's or inspector's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

[36 FR 11795, June 19, 1971. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 8, Jan. 2, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46069, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982; 50 FR 3736, Jan. 28, 1985; 50 FR 10750, Mar. 18, 1985]

§ 55.530 Travel expenses and other charges.

Charges are to be made to cover the cost of travel and other expenses incurred by the Department in connection with rendering grading service. Such charges shall include the costs of transportation, per diem, shipping containers, postage, and any other expenses.

[42 FR 2969, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 8, Jan. 2, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 55.550 Laboratory analysis fees.

(a) The fees listed for the following individual laboratory analysis cover costs involved in the preparation and analysis of the product, certificate issuance, and personnel and overhead costs other than the expenses listed in § 55.530.

	Fee
Solids	$12.74
Fat	25.48
Bacteriological plate count	12.74
Bacteriological direct count	25.48
Coliforms: [1]	
Step 1	19.11
Step 2	19.11
E. coli (presumptive):	
In addition to coliform analysis	19.11
Without coliform analysis	38.22
Yeast and mold count	12.74
Sugar	31.85
Salt	31.85
Color:	
NEPA	19.11
B-Carotene	25.48
Whipping test	12.74
Whipping test plus bleeding	19.11
Fat film test	31.85
Oxygen	12.74
Glucose:	
Quantitative	25.48
Qualitative	19.11
Palatability and odor:	
First sample	12.74
Each additional sample	6.37
Staphylococcus	38.22
Salmonella: [2]	
Step 1	25.48
Step 2	12.74
Step 3	25.48

[1] Coliform test may be in two steps as follows: Step 1—presumptive test through lauryl sulfate tryptose broth; Step 2— confirmatory test through brilliant green lactose bile broth.

[2] Salmonella test may be in three steps as follows: Step 1—growth through differential agars; Step 2—growth and testing through triple-sugar-iron and lysine-iron agars; Step 3—confirmatory test through biochemicals.

(b) The fee charge for any laboratory analysis not listed in paragraph (a) of this section, or for any other applicable services rendered in the laboratory, shall be based on the time required to perform such analysis or render such service. The hourly rate shall be $25.48.

[50 FR 3736, Jan. 28, 1985; 50 FR 10750, Mar. 18, 1985]

§ 55.560 Charges for continuous inspection and grading service on a resident basis.

Fees to be charged and collected for service on a resident basis shall be those provided in this section. The fees to be charged for any appeal grading or inspection shall be as provided in § 55.510.

(a) *Charges.* The charges for the service shall be paid by the applicant and shall include items listed in this section as are applicable. Payment for the full cost of the service rendered to the applicant shall be made by the applicant to the Agricultural Marketing Service, U.S. Department of Agriculture. Such full costs shall comprise such of the items listed in this section as are due and included in the bill or bills covering the period or periods during which the grading and inspection service was rendered. Bills will be rendered by the 10th day following the end of the billing period in which the service was rendered and are payable upon receipt.

(1) An inauguration charge of $310 will be made at the time an application for service is signed except when the application is required because of a change in name or ownership. If service is not installed within 6 months from the date the application is filed, or if service is inactive due to an approved request for removal of a grader(s) or inspector(s) for a period of 6 months, the application will be considered terminated, but a new application may be filed at any time. In addition, there will be a charge of $300 if the application is terminated at the

request of the applicant for reasons other than for a change in location, within 12 months from the date of the inauguration of service.

(2) A charge for the salary and other costs, as specified in this subparagraph, for each grader or inspector while assigned to a plant, except that no charge will be made when the assigned grader or inspector is temporarily reassigned by AMS to perform grading or inspection service for other than the applicant. Base salary rates will be determined on a national average for all official plants operating in States under a Federal Trust Fund Agreement where Federal graders, State graders, or a combination of Federal and State graders are used, by averaging the salary rates paid to each Federal or State grader assigned to such plants. Charges to plants are as follows:

(i) For all regular hours of work scheduled and approved as an established tour of duty for a plant, the regular rate charge will be made. The regular rate charge will be determined by adding an amount to the base salary rate to cover the costs to AMS for such items as the Employer's Tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for Old Age and Survivor's Benefits under the Social Security System, retirement benefits, groups life insurance, severance pay, sick leave, annual leave, additional salary and travel costs for relief grading service, accident payments, certain moving costs, and related servicing costs.

(ii) All hours worked by an assigned grader or inspector or another grader or inspector in excess of the approved tour of duty, or worked on a nonscheduled workday, or actually worked on a holiday in excess of the tour of duty, will be considered as overtime. The charge for such overtime will be 150 percent of the grader's or inspector's base salary rate.

(iii) For work performed on a holiday which is within the established tour of duty approved for a plant, the added charge will be the same as the grader's or inspector's base rate.

(iv) For work performed between 6 p.m. and 6 a.m., night differential charges (for regular, overtime, or holiday hours worked during this period) will be at the applicable rates established plus 10 percent of the base rate.

(v) For work performed on Sunday, Sunday differential charges (for regular, overtime, or holiday hours worked on Sunday) will be at the applicable rates established plus 25 percent of the base rate.

(vi) For all hours of work performed in a plant without an approved tour of duty, the charge will be one of the applicable hourly rates in § 55.510.

(3) An administrative service charge equal to 25 percent of the grader's or inspector's total salary costs. A minimum charge of $120 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

(b) *Other provisions.* (1) The applicant shall designate in writing the employees of the applicant who will be required and authorized to furnish each grader or inspector with such information as may be necessary for the performance of the service.

(2) AMS will provide, as available, an adequate number of graders or inspectors to perform the service. The number of graders or inspectors required will be determined by AMS based on the expected demand for service.

(3) The service shall be provided at designated locations and shall be continued until the service is suspended, withdrawn, or terminated by:

(i) Mutual consent;

(ii) Thirty (30) days' written notice, by either the applicant or AMS specifying the date of suspension, withdrawal, or termination;

(iii) One (1) day's written notice by AMS to the applicant if the applicant fails to honor any invoice within thirty (30) days after date of invoice covering the cost of the grading and inspection service; or

(iv) Action taken by AMS pursuant to the provisions of § 55.180 or § 55.200.

(4) Graders or inspectors will be required to confine their activities to those duties necessary in the rendering of service and such closely related activities as may be approved by the Administrator.

(5) When similar services are furnished to the same applicant under Part 56 or Part 70 of this chapter, the charges listed in this section shall not be repeated.

[36 FR 11795, June 19, 1971, as amended at 37 FR 9458, May 11, 1972; 41 FR 47255, Oct. 28, 1976; 42 FR 2969, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and amended at 42 FR 57300, Nov. 2, 1977; 43 FR 60138, Dec. 26, 1978; 46 FR 8, Jan. 2, 1981; 46 FR 49571, Oct. 7, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46069, 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982; 48 FR 20682, May 9, 1983]

§ 55.570 Fees for service performed under cooperative agreement.

The fees to be charged and collected for any service performed under cooperative agreement shall be those provided for by such agreement.

SANITARY AND PROCESSING REQUIREMENTS

§ 55.600 General.

Except as otherwise approved by the Administrator, the sanitary, processing, and facility requirements, as applicable, shall be the same for the product processed under this part as for egg products processed under §§ 59.500 through 59.580(c) of this chapter and § 55.650.

§ 55.650 Inspection and grading.

Examinations of the ingredients, processing, and the product shall be made to assure the production of a wholesome, unadulterated, and properly labeled product. Such examinations include, but are not being limited to:

(a) Sanitation checks of plant premises, facilities, equipment, and processing operations.

(b) Checks on ingredients and additives used in products to assure that they are not adulterated, are fit for use as human food, and are stored, handled, and used in a sanitary manner.

(c) Examination of the eggs or egg products used in the products to assure they are wholesome, not adulterated, and comply with the temperature, pasteurization, or other applicable requirements.

(d) Inspection during the processing and production of the product to determine compliance with any applicable standard or specification for such product.

(e) Examination during processing of the product to assure compliance with approved formulas and labeling.

(f) Test weighing and organoleptic examinations of finished product.

Subpart B—Official U.S. Standards for Palatability Scores for Dried Whole Eggs

§ 55.800 Preparation of samples for palatability test.

Reconstitute 33 grams of dried whole egg powder as completely as possible with 90 grams of distilled water in a suitable, clean container. Add the water and mix until the mixture is smooth and free from lumps. Place the container in gently boiling water and stir the mixture while coagulation takes place. When coagulated to the consistency of scrambled eggs, the sample is ready for the palatability test.

§ 55.820 Palatability scores for dried whole eggs.

The palatability score of the prepared sample shall be determined by a panel of officially qualified graders of dried eggs of the Agricultural Marketing Service, and shall be rated in accordance with the following table:

DESCRIPTION OF QUALITY

Score:	
8	No detectable off flavor, comparable to high quality fresh shell eggs.
7½	Very slight off flavor.
7	Slight but not unpleasant off flavor.
6½	Definite but not unpleasant off flavor.
6	Pronounced off flavor (slightly unpleasant).
5	Unpleasant off flavor.
4	Definite unpleasant off flavor.
3	Pronounced unpleasant off flavor.
2	Repulsive flavor.
1	Definite repulsive flavor.
0	Pronounced repulsive flavor.

[36 FR 11795, June 19, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, as amended at 47 FR 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

PART 56—GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

Subpart A—Grading of Shell Eggs

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AUTHORITY: Secs. 202-208 of the Agricultural Marketing Act of 1946, as amended (60 Stat. 1087-1091; 7 U.S.C. 1621-1627).

EDITORIAL NOTE: Nomenclature changes to Part 56 appear at 37 FR 8059, Apr. 25, 1972; 42 FR 32514, June 27, 1977; and 46 FR 63203, Dec. 31, 1981.

Subpart A—Grading of Shell Eggs

DEFINITIONS

§ 56.1 Meaning of words and terms defined.

For the purpose of the regulations in this part, words in the singular shall be deemed to import the plural and vice versa, as the case may demand, and unless the context otherwise requires, the following terms shall be construed, respectively, as follows:

"Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U.S.C. 1621 et seq.), or any other act of Congress conferring like authority.

"Administrator" means the Administrator of the Agricultural Marketing Service of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated the authority to act in his stead.

"Applicant" means an interested party who requests any grading service, appeal grading, or regrading with respect to any product.

"Cage mark" means any stain-type mark caused by an egg coming in contact with a material that imparts a rusty or blackish appearance to the shell.

"Case" means, when referring to containers, an egg case, as used in commercial practice in the United States, holding 30 dozens of shell eggs.

"Chief of the Grading Branch" means the Chief of the Poultry Grading Branch of the Poultry Division, Agricultural Marketing Service."

"Class" means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind, species, or method of processing.

"Condition" means any condition (including, but not being limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food) of any product which affects its merchantability.

"Department" means the United States Department of Agriculture.

"Eggs of current production" means shell eggs which have moved through usual marketing channels since the time they were laid and have not been held in refrigerated storage in excess of 30 days. "Refrigerator or storage eggs" means shell eggs which have been held under refrigeration for a period of more than 30 days.

"Grader" means any employee of the Department authorized by the Secretary, or any other person to whom a license has been issued by the Secretary, to investigate and certify, in accordance with the act and this part, to shippers of products and other interested parties the class, quality, quantity, and condition of such products.

"Grading" or "grading service" means: (1) The act whereby a grader determines, according to the regulations in this part, the class, quality, quantity, or condition of any product by examining each unit thereof or each unit of the representative sample thereof drawn by a grader and issues a grading certificate with respect thereto, except that with respect to grading service performed on a resident basis the issuance of a grading certificate shall be pursuant to a request therefor by the applicant or the Service; (2) the act whereby the grader identifies, according to the regulations in this part, the graded product; (3) continuous supervision, in an official plant, of the handling or packaging of any product; and (4) any regrading or any appeal grading of a previously graded product.

"Grading certificate" means a statement, either written or printed, issued by a grader pursuant to the act and this part, relative to the class, quantity, quality, or condition of products.

"Holiday" or "legal holiday" shall mean the legal public holidays specified by the Congress in paragraph (a) of section 6103, Title 5, of the United States Code.

"Interested party" means any person financially interested in a transaction involving any grading, appeal grading, or regrading of any product.

"National supervisor" means (1) the officer in charge of the shell egg grading service of the Agricultural Marketing Service, and (2) such other employees of the Service as may be designated by him.

"Nest run eggs" means eggs which are packed as they come from the production facilities without having been washed, sized and/or candled for quality, with the exception that some Checks, Dirties, or other obvious undergrades may have been removed.

"Office of grading" means the office of any grader.

"Official plant" means any plant in which the facilities and methods of operation therein have been found by the Administrator to be suitable and adequate for grading service in accordance with this part and in which grading service is carried on.

"Origin grading" is a grading made on a lot of eggs at a plant where the eggs are graded and packed.

"Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

"Potable water" means water that has been approved by the State health authority or agency or laboratory acceptable to the Administrator as safe for drinking and suitable for food processing.

"Product" or "products" means shell eggs of the domesticated chicken.

"Quality" means the inherent properties of any product which determine its relative degree of excellence.

"Quality assurance inspector" means any designated company employee authorized by the Secretary to supervise the labeling, dating, and lotting of officially graded shell eggs and to assure that such product is packaged under sanitary conditions, graded by authorized personnel, and maintained under proper inventory control until released by an employee of the Department.

"Regional director" means any employee of the Department in charge of the shell egg grading service in a designated geographical area.

"Regulations" means the provisions in this part.

"Sampling" means the act of taking samples of any product for grading.

"Secretary" means the Secretary of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

"Service" means the Agricultural Marketing Service of the Department.

"Shell eggs" means shell eggs of domesticated chickens.

"Shell protected" means eggs which have had a protective covering such as oil applied to the shell surface. The product used shall be acceptable to the Food and Drug Administration.

[20 FR 669, Feb. 1, 1955; 20 FR 757, Feb. 4, 1955, as amended at 20 FR 9894, Dec. 23, 1955; 21 FR 5207, July 13, 1956; 28 FR 6341, June 20, 1963; 30 FR 6207, May 4, 1965; 32 FR 8230, June 6, 1967; 36 FR 19301, Oct. 2, 1971; 37 FR 22791, Oct. 25, 1972; 38 FR 26797, Sept. 26, 1973; 40 FR 20055, May 8, 1975; 42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60138, Dec. 26, 1978; 46 FR 39570, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47

FR 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

§ 56.2 Designation of official certificates, memoranda, marks, other identifications and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Pub. L. 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed in this section shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, used under this part to certify with respect to the sampling, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading or sampling pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading or sampling under this part, and any report made by an authorized person of services performed pursuant to this part.

(c) "Official mark" means the grademark and any other mark, or any variations in such marks approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded, or indicating the appropriate U.S. grade or condition of the product, or for the purpose of maintaining the identity of products graded under this part, including but not limited to, those set forth in § 56.36.

(d) "Official identification" means any United States (U.S.) standard designation of class, grade, quality, size, quantity, or condition specified in this part or any symbol, stamp, label or seal indicating that the product has been officially graded and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

[28 FR 6341, June 20, 1963. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

ADMINISTRATION

§ 56.3 Administration.

(a) The Administrator shall perform, for and under the supervision of the Secretary, such duties as the Secretary may require in the enforcement or administration of the provisions of the Act and this part. The Administrator is authorized to waive for limited periods any particular provisions of the regulations in this part to permit experimentation so that new procedures, equipment, and processing techniques may be tested to facilitate definite improvements and at the same time to determine full compliance with the spirit and intent of the regulations in this part. The Agricultural Marketing Service and its officers and employees shall not be liable in damages through acts of commission or omission in the administration of this part.

(b) The conduct of all services and the licensing of graders under these regulations shall be accomplished without discrimination as to race, color, religion, sex, or national origin.

[20 FR 670, Feb. 1, 1955, as amended at 38 FR 26798, Sept. 26, 1973; 42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

GENERAL

§ 56.4 Basis of grading service.

(a) Any grading service in accordance with the regulations in this part shall be for class, quality, quantity, or condition or any combination thereof. Grading service with respect to the determination of the quality of products shall be on the basis of the "United States Standards, Grades, and Weight Classes" as contained in Subpart C of this part. However, grading service may be rendered with respect to products which are bought and sold on the basis of institutional contract specifications or specifications of the applicant and such service, when approved by the Administrator, shall be rendered on the basis of such specifications. The supervision of packaging shall be in accordance with such instructions as may be approved or issued by the Administrator.

(b) Whenever grading service is performed on a representative sample basis, such sample shall be drawn and consist of not less than the minimum number of cases as indicated in the following table. A minimum of one hundred eggs shall be examined per sample case. For lots which consist of less than 1 case, a minimum of 50 eggs shall be examined. If the lot consists of less than 50 eggs, all eggs will be examined.

MINIMUM NUMBER OF CASES COMPRISING A REPRESENTATIVE SAMPLE

Cases in lot	Cases in sample
1 case	1
2 to 10, inclusive	2
11 to 25, inclusive	3
26 to 50, inclusive	4
51 to 100, inclusive	5
101 to 200, inclusive	8
201 to 300, inclusive	11
301 to 400, inclusive	13
401 to 500, inclusive	14
501 to 600, inclusive	16

For each additional 50 cases, or fraction thereof, in excess of 600 cases, one additional case shall be included in the sample.

[20 FR 670, Feb. 1, 1955, as amended at 22 FR 8167, Oct. 16, 1957; 28 FR 6342, June 20, 1963; 42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.5 Accessibility and condition of product.

Each product for which grading service is requested shall be so conditioned and placed as to permit a proper determination of the class, quality, quantity, or condition of such product.

[20 FR 670, Feb. 1, 1955, as amended at 27 FR 10317, Oct. 23, 1962. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.6 Supervision.

All grading service shall be subject to supervision at all times by the applicable State supervisor, regional director and national supervisor. Such service shall be rendered where the facilities and conditions are satisfactory for the conduct of the service and the requisite graders are available. Whenever the supervisor of a grader has evidence that such grader incorrectly graded a product, such supervisor shall take such action as is necessary to correct the grading and to cause any improper grademarks which appear on the product or the containers thereof to be corrected prior to shipment of the product from the place of initial grading.

[40 FR 20055, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.8 Other applicable regulations.

Compliance with the regulations in this part shall not excuse failure to comply with any other Federal, or any State, or municipal applicable laws or regulations.

[20 FR 670, Feb. 1, 1955. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.9 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection requirements by the Office of Management and Budget contained in 7 CFR Part 56 pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511.

(b) *Display.*

7 CFR section where identified and described	Current OMB control No.
56.3	0581-0128
56.4	0581-0128
56.4 (a)	0581-0128
56.5	0581-0128
56.10(a)	0581-0128
56.11	0581-0128
56.12	0581-0128
56.13	0581-0128
56.14	0581-0128
56.17(b)	0581-0128
56.18	0581-0128
56.21(a)	0581-0128
56.21(b)	0581-0128
56.23	0581-0128
56.24	0581-0128
56.25	0581-0128
56.26	0581-0128
56.30	0581-0128
56.31(a)	0581-0128
56.35(b)	0581-0128
56.35(c)	0581-0128
56.37	0581-0128
56.52(a)(1)	0581-0128
56.52(a)(4)	0581-0128
56.52(b)	0581-0128
56.52(b)(1)	0581-0128
56.52(b)(3)(ii)	0581-0128
56.54(b)	0581-0128
56.54(b)(1)	0581-0128
56.54(b)(3)(ii)	0581-0128
56.56	0581-0128
56.56(a)	0581-0128
56.57	0581-0128
56.58	0581-0128
56.60	0581-0128
56.62	0581-0128
56.76(e)(6)	0581-0128
56.76(g)	0581-0128

[48 FR 56565, Dec. 22, 1983, as amended at 49 FR 25222, June 20, 1984]

LICENSED GRADERS

§ 56.10 Who may be licensed.

(a) Except as otherwise provided in paragraph (c) of this section, any person who is a Federal or State employee, the employee of a local jurisdiction, or the employee of a cooperating agency possessing proper qualifications as determined by an examination for competency and who is to perform grading service under this part, may be licensed by the Secretary as a grader.

(b) All licenses issued by the Secretary shall be countersigned by the officer in charge of the poultry grading service of the Agricultural Marketing Service or any other designated officer of such Service.

(c) No person may be licensed to grade or sample any product in which he is financially interested.

[20 FR 670, Feb. 1, 1955, as amended at 28 FR 6342, June 20, 1963; 37 FR 12918, June 30, 1972. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.11 Authorization to perform limited grading services.

Any person who is employed by any official plant and possesses proper qualifications, as determined by the Administrator, may be authorized to candle and grade eggs on the basis of the "U.S. Standards for Quality of Individual Shell Eggs," with respect to eggs purchased from producers or eggs to be packaged with official identification. In addition, such authorization may be granted to any qualified person to act as a "quality assurance inspector" in the packaging and grade labeling of products. No person to whom such authorization is granted shall have authority to issue any grading certificates, grading memoranda, or other official documents; and all eggs which are graded by any such person shall thereafter be check graded by a grader.

[42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.12 Suspension of license; revocation.

Pending final action by the Secretary, any person authorized to countersign a license to perform grading service may, whenever he deems such action necessary to assure that any grading service is properly performed, suspend any license to perform grading service issued pursuant to this part, by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within 7 days after the receipt of the aforesaid notice and statement of reasons, the licensee may file an appeal in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be further suspended or revoked. After the expiration of the aforesaid 7-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 7 days, the license to perform grading service is revoked.

[35 FR 19327, Dec. 22, 1970. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.13 Cancellation of license.

Upon termination of his services as a grader, each licensee shall surrender his license immediately for cancellation.

[42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.14 Surrender of license.

Each license which is canceled, suspended, or has expired shall immediately be surrendered by the licensee to the office of grading serving the area in which he is located.

[31 FR 2773, Feb. 16, 1966. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.15 Political activity.

All graders are forbidden during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including, but not being limited to, temporary and cooperative employees, and employees on leave of absence with or without pay. Willful violation of this section will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

[42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.16 Identification.

All graders shall each have in possession at all times, and present upon request, while on duty, the means of identification furnished by the Department to such person.

[42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.17 Facilities and equipment for graders.

Facilities and equipment to be furnished by the applicant for use of graders in performing service on a resident basis shall include (when deemed necessary) the following:

(a)(1) An accurate metal stem thermometer;

(2) Scales to weigh individual eggs, cartons of eggs, and bulk eggs. Test weights for each type scale used;

(3) An acceptable candling light.

(b) Furnished office space, a desk (equipped with a satisfactory locking device), and lockers or cabinets suitable for the protection and storage of official stamps and supplies. Such space and equipment must meet the approval of the National supervisor.

[32 FR 8230, June 8, 1967. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 39570, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.18 Schedule of operation of official plants.

Grading operating schedules for services performed pursuant to §§ 56.52 and 56.54 shall be requested in writing and be approved by the Administrator. Normal operating schedules for a full week consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week, within the administrative workweek, Sunday through Saturday, for each shift required. Less than 8-hour schedules may be requested and will be approved if a grader is available. Clock hours of daily operations need not be specified in the request, although as a condition of continued approval, the hours of operation shall be reasonably uniform from day to day. Graders are to be notified by management 1 day in advance of any change in the hours grading service is requested.

[48 FR 20683, May 9, 1983]

APPLICATION FOR GRADING

§ 56.20 Who may obtain grading service.

An application for grading service may be made by any interested person, including, but not being limited to, the United States, any State, county, municipality, or common carrier, and any authorized agent of the foregoing.

[42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.21 How application for service may be made; conditions of service.

(a) *Noncontinuous grading service on a fee basis.* An application for any noncontinuous grading service on a fee basis may be made in any office of grading, or with any grader at or nearest the place where the service is desired. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If the application for grading service is made orally, the office of grading or the grader with whom such application is made, or the Administrator, may require that the application be confirmed in writing.

(b) *Continuous grading service on a resident basis or continuous grading service on a nonresident basis.* An application for continuous grading service on a resident basis or for continuous grading service on a nonresident basis must be made in writing on forms approved by the Administrator and filed with the Administrator. Such forms may be obtained at the national, regional, or State grading office. In making application, the applicant agrees to comply with the terms and conditions of the regulations (including, but not being limited to, such instructions governing grading of products as may be issued from time to time by the Administrator). No member of or Delegate to Congress or Resident Commissioner shall be admitted to any benefit that may arise from such service unless derived through service rendered a corporation for its general benefit.

[42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.22 Filing of application.

An application for grading or sampling of a specified lot of any product shall be regarded as filed only when made pursuant to this part.

[28 FR 6342, June 20, 1963. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.23 Form of application.

Each application for grading or sampling a specified lot of any product shall include such information as may be required by the Administrator in regard to the product and the premises where such product is to be graded or sampled.

[28 FR 6342, June 20, 1963. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.24 When application may be rejected.

An application for grading service may be rejected by the Administrator (a) whenever the applicant fails to meet the requirements of the regulations prescribing the conditions under which the service is made available; (b) whenever the product is owned by or located on the premises of a person currently denied the benefits of the act; (c) where any individual holding office or a responsible position with or having a substantial financial interest or share in the applicant is currently denied the benefits of the act or was responsible in whole or in part for the current denial of the benefits of the act to any person; (d) where the Administrator determines that the application is an attempt on the part of a person currently denied the benefits of the act to obtain grading services; (e) whenever the applicant fails to bring the plant facilities, and operating procedures into compliance with the regulations within a reasonable period of time; (f) notwithstanding any prior approval whenever, before inauguration of service, the applicant fails to fulfill commitments concerning the inauguration of the service; (g) when it appears that to perform the services specified in this part would not be to the best interests of the public welfare or of the Government; or (h) when it appears to the Administrator that prior commitments of the

Department necessitate rejection of the application. Each such applicant shall be promptly notified by registered mail of the reasons for the rejection. A written petition for reconsideration of such rejection may be filed by the applicant with the Administrator if postmarked or delivered within 10 days after the receipt of notice of the rejection. Such petition shall state specifically the errors alleged to have been made by the Administrator in rejecting the application. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall approve the application or notify the applicant by registered mail of the reasons for the rejection thereof.

[28 FR 6342, June 20, 1963, as amended at 42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.25 When application may be withdrawn.

An application for grading service may be withdrawn by the applicant at any time before the service is performed upon payment, by the applicant, of all expenses incurred by the Service in connection with such application.

[20 FR 671, Feb. 1, 1955. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.26 Authority of applicant.

Proof of the authority of any person applying for any grading service may be required at the discretion of the Administrator.

[20 FR 671, Feb. 1, 1955. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.27 Order of service.

Grading service shall be performed, insofar as practicable, in the order in which applications therefor are made except that precedence may be given to any application for an appeal grading.

[20 FR 671, Feb. 1, 1955; 20 FR 757, Feb. 4, 1955, as amended at 42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

VIOLATIONS

§ 56.30 Report of violations.

Each grader, shall report in the manner prescribed by the Administrator, all violations and noncompliances under the Act and this part of which such grader, has knowledge.

[42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

DENIAL OF SERVICE

§ 56.31 Debarment.

(a) The following acts or practices or the causing thereof may be deemed sufficient cause for the debarment by the Administrator, of any person, including any agents, officers, subsidiaries or affiliates of such person, from all benefits of the act for a specific period. The rules of practice governing withdrawal of grading services in formal adjudicatory proceedings instituted by the Secretary (7 CFR, Part 1, Subpart H) shall be applicable to such debarment action.

(1) *Misrepresentation, deceptive, or fraudulent act or practice.* Any willful misrepresentation or any deceptive or fraudulent act or practice found to be made or committed by any person in connection with:

(i) The making or filing of an application for any grading service or appeal service;

(ii) The making of the product accessible for sampling or grading;

(iii) The making, issuing, or using or attempting to issue or use any grading certificate, symbol, stamp, label, seal, or identification authorized pursuant to the regulations in this part;

(iv) The use of the terms "United States" or "U.S." in conjunction with the grade of the product;

(v) The use of any of the aforesaid terms or any official stamp, symbol, label, seal, or identification in the labeling or advertising of any product; or

(vi) The use of the terms "Government Graded," "Federal-State Graded" or terms of similar import in the labeling or advertising of any product.

(2) *Use of facsimile forms.* Using or attempting to use a form which simulates in whole or in part any certificate, symbol, stamp, label, seal or identification authorized to be issued or used under the regulations in this part.

(3) *Willful violation of the regulations.* Any willful violation of the regulations in this part or the act.

(4) *Interfering with a grader or employee of the Service.* Any interference with or obstruction or any attempted interference or obstruction of or assault upon any grader, licensee, or employee of the Service in the performance of his duties. The giving or offering, directly or indirectly, of any money, loan, gift, or anything of value to an employee of the Service or the making or offering of any contribution to or in any way supplementing the salary, compensation or expenses of an employee of the Service or the offering or entering into a private contract or agreement with an employee of the Service for any services to be rendered while employed by the Service.

(5) *Misleading labeling.* The use of the terms "Government Graded", "Federal-State Graded", or terms of similar import in the labeling or advertising of any product without stating in the label or advertisement the U.S. grade of the product as determined by an authorized grader.

(6) *Miscellaneous.* The existence of any of the conditions set forth in § 56.24 constituting the basis for the rejection of an application for grading service.

[20 FR 9895, Dec. 23, 1955, as amended at 28 FR 6343, June 20, 1963; 35 FR 5664, Apr. 8, 1970; 42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.32 Retention authorities.

A grader may use retention tags or other devices and methods as approved by the Administrator for the identification and control of shell eggs which are not in compliance with the regulations or are held for further examination and for any equipment, utensils, rooms or compartments which are found unclean or otherwise in violation of the regulations. Any such item shall not be released until in compliance with the regulations and retention identification shall not be removed by anyone other than a grader.

[35 FR 5664, Apr. 8, 1970. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

IDENTIFYING AND MARKING PRODUCTS

§ 56.35 Authority to use, and approval of official identification.

(a) *Authority to use official identification.* Authority to officially identify product graded pursuant to this part is granted only to applicants who make the services of a grader or quality assurance inspector available for use in accordance with this part. Packaging materials bearing official identification marks shall be approved pursuant to §§ 56.35 to 56.37, inclusive, and shall be used only for the purpose for which approved and prescribed by the Administrator. Any unauthorized use or disposition of approved labels or packaging materials which bear any official identification may result in cancellation of the approval and denial of the use of labels or packaging materials bearing official identification or denial of the benefits of the Act pursuant to the provisions of § 56.31.

(b) *Approval of official identification.* No label, container, or packaging material which bears official identification may contain any statement that is false or misleading. No label, container, or packaging material bearing official identification may be printed or prepared for use until the printers' or other final proof has been approved by the Administrator in accordance with the regulations in this part, the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, and the regulations promulgated under these acts. The use of finished labels must be approved as prescribed by the Administrator. A grader may apply official identification stamps to shipping containers if they do not bear any statement that is false or misleading. If the label is printed or otherwise applied directly to the container, the principal display panels of such container shall for this purpose be considered as the label. The label shall contain the name, address, and ZIP Code of the packer or distributor of the product, the name of the product, a statement of the net contents of the container, and the U.S. grademark.

(c) *Nutrition labeling.* Nutrition information may be included on the label of consumer packaged shell eggs, providing, such labeling complies with the provisions of Title 21, Chapter I, Part 1, Regulations for the Enforcement of the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act. Nutrition labeling is required when a nutritional claim or information is presented on the labeling of consumer packages. Labeling will not be approved by the Department without comments from the Food and Drug Administration regarding nutritional claims and test data.

[40 FR 20055, May 8, 1975, as amended at 42 FR 2970, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.36 Information required on and form of grademark.

(a) *Information required on grademark.* (1) Except as otherwise authorized, each grademark provided for in this section shall conspicuously and legibly indicate the letters "USDA," and the U.S. grade of the product it identifies, such as "A Grade" (illustrated in Figure 2). The letters "USDA" shall be printed in a light color on and surrounded by a dark field, and the U.S. grade printed in a dark color on a light field.

(2) The size or weight class of the product such as "Large" and such terms as "Federal-State Graded" or words of similar import may be shown within the grademark (illustrated in Figure 3). This information shall be printed in a dark color on a light field. However, such terms as "Federal-State Graded" need not be shown. The size or weight class of the product may be omitted from the grademark, provided, it appears prominently on the main panel of the carton.

(3) The plant number of the official plant preceded by the letter "P" must be shown on each carton or packaging material.

(b) *Form of official identification symbol and grademark.* (1) The shield set forth in Figure 1 containing the letters "USDA" shall be the official identification symbol for purposes of this part and when used, imitated, or simulated in any manner in connection with shell eggs, shall be deemed to constitute a representation that the product has been officially graded for the purpose of § 56.2.

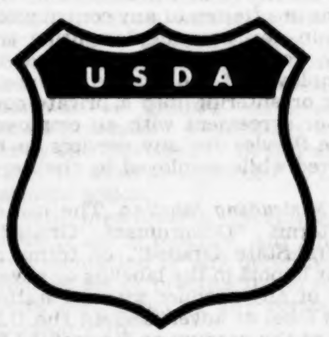

FIGURE 1.

(2) Except as otherwise authorized, the grademark permitted to be used to officially identify cartons of shell eggs which are graded pursuant to the regulations in this part shall be contained in a shield and in the form and design indicated in Figures 2, 3, and 4 of this section. The shield shall be of sufficient size so that the print and other information contained therein is distinctly legible and in approximately the same proportion and size as shown in Figures 2 and 3. The grademark shall be printed on the carton or on a tape used to seal the carton.

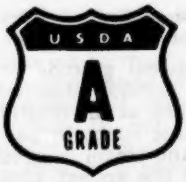

FIGURE 2.

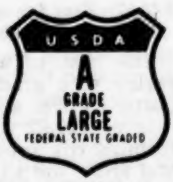

FIGURE 3.

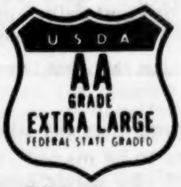

FIGURE 4.

[28 FR 6343, June 20, 1963, as amended at 32 FR 8230, June 8, 1967; 40 FR 20055, May 8, 1975; 42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 39570, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.37 Lot marking of officially identified product.

Each carton identified with the grademarks shown in Figures 2, 3, or 4 of § 56.36 shall be legibly lot numbered on either the carton or the tape used to seal the carton. The lot number shall be the consecutive day of the year on which the eggs were packed (e.g., 132), except other lot numbering systems may be used when submitted in writing and approved by the Administrator.

[35 FR 5664, Apr. 8, 1970. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 39570, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.38 [Reserved]

PREREQUISITES TO PACKAGING SHELL EGGS IDENTIFIED WITH CONSUMER GRADEMARKS

§ 56.39 Quality assurance inspector required.

The official identification of any graded product as provided in §§ 56.35 to 56.41, inclusive, shall be done only under the supervision of a grader or quality assurance inspector. The grader or quality assurance inspector shall have supervision over the use and handling of all material bearing any official identification.

[42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 39570, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.40 Grading requirements of shell eggs identified with consumer grademarks.

(a) Shell eggs to be identified with the marks illustrated in Figures 2, 3, and 4 of § 56.36 must be individually graded by a grader or by authorized personnel pursuant to § 56.11 and thereafter check graded by a grader.

(b) Shell eggs not graded in accordance with paragraph (a) of this section may be officially graded on a sample basis and the shipping containers may be identified with grademarks which contain the words "Sample Graded" and which are approved by the Administrator.

(c) Shell eggs which are to bear the U.S. consumer grademark shall be packed only from eggs of current production. They shall not possess any undesirable odors or flavors.

[32 FR 8231, June 8, 1967. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 39571, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.41 Check grading officially identified product.

Officially identified shell eggs packed or received in an official plant may be subject to final check grading prior to their shipment. Such product found not to be in compliance with the assigned official grade shall be placed under a retention tag until it is regraded to comply with the grade assigned or until the official identification is removed.

[35 FR 5664, Apr. 8, 1970. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§§ 56.42—56.43 [Reserved]

FEES AND CHARGES

§ 56.45 Payment for fees and charges.

(a) Fees and charges for any grading service shall be paid by the interested party making the application for such grading service, in accordance with the applicable provisions of this section and §§ 56.46 to 56.54, both inclusive; and, if so required by the grader, such fees and charges shall be paid in advance.

(b) Fees and charges for any grading service shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by check, draft, or money order payable to the Agricultural Marketing Service and remitted promptly to the Service.

(c) Fees and charges for any grading service under a cooperative agreement with any State or person shall be paid in accordance with the terms of such cooperative agreement.

[33 FR 20004, Dec. 31, 1968 and 42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.46 On a fee basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service (other than for an appeal grading) performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be $21.88 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $23.68 per hour. Information on legal holidays is available from the Supervisor.

[33 FR 20004, Dec. 31, 1968. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 50 FR 3737, Jan. 28, 1985; 50 FR 10750, Mar. 18, 1985]

§ 56.47 Fees for appeal grading or review of a grader's decision.

The cost of an appeal grading or review of a grader's decision shall be borne by the appellant at an hourly rate of $19.92 for time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading or review of a grader's decision discloses that a material error was made in the original determination, no fee or expense will be charged.

[50 FR 3737, Jan. 28, 1985; 50 FR 10750, Mar. 18, 1985]

§ 56.49 Travel expenses and other charges.

Charges are to be made to cover the cost of travel and other expenses incurred by the service in connection with rendering grading service. Such charges shall include the cost of transportation, per diem, and any other expenses.

[42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 8, Jan. 2, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.52 Continuous grading performed on a resident basis.

Fees to be charged and collected for any grading service, other than for an appeal grading, on a resident grading basis, shall be those provided in this section. The fees to be charged for any appeal grading shall be as provided in § 56.47.

(a) *Charges.* The charges for the grading of shell eggs shall be paid by the applicant for the service and shall include items listed in this section as are applicable. Payment for the full cost of the grading service rendered to the applicant shall be made by the applicant to Agricultural Marketing Service, U.S. Department of Agriculture (hereinafter referred to as "AMS"). Such full costs shall comprise such of the items listed in this section as are due and included in the bill or bills covering the period or periods during which the grading service was rendered. Bills will be rendered by the 10th day following the end of the period in which the service was rendered and are payable upon receipt.

(1) An inauguration charge of $310 will be made at the time an application for service is signed except when the application is required because of a change in name or ownership. If service is not installed within 6 months from the date the application is filed, or if service is inactive due to an approved request for removal of a grader(s) for a period of 6 months, the application will be considered terminated, but a new application may be filed at any time. In addition there will be a charge of $300 if the application is terminated at the request of the applicant for reasons other than for a change in location, within 12 months from the date of the inauguration of service.

(2) A charge for the salary and other costs, as specified in this paragraph, for each grader while assigned to a plant, except that no charge will be made when the assigned grader is temporarily reassigned by AMS to perform grading service for other than the applicant. Base salary rates will be determined on a national average for all official plants operating in States under a Federal Trust Fund Agreement where Federal graders, State graders, or a combination of Federal and State graders are used, by averaging the salary rates paid to each Federal or State grader assigned to such plants. Charges to plants are as follows:

(i) For all regular hours of work scheduled and approved as an established tour of duty for a plant, the regular rate charge will be made. The regular rate charge will be determined by adding an amount to the base salary rate to cover the costs to AMS for such items as the Employer's Tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for Old Age and Survivor's Benefits under the Social Security System, retirement benefits, group life insurance, severance pay, sick leave, annual leave, additional salary and travel costs for relief grading service, accident payments, certain moving costs, and related servicing costs.

(ii) All hours worked by an assigned grader or another grader in excess of the approved tour of duty, or worked on a nonscheduled workday, or actually worked on a holiday in excess of the tour of duty, will be considered as overtime. The charge for such overtime will be 150 percent of the grader's base salary rate.

(iii) For work performed on a holiday which is within the established tour of duty approved for a plant, the added charge will be the same as the grader's base rate.

(iv) For work performed between 6 p.m. and 6 a.m., night differential charges (for regular, overtime, or holiday hours worked during this period) will be at the applicable rates established plus 10 percent of the base rate.

(v) For work performed on Sunday, Sunday differential charges (for regular, overtime, or holiday hours worked on Sunday) will be at the applicable rates established plus 25 percent of the base rate.

(vi) For all hours of work performed in a plant without an approved tour of duty, the charge will be one of the applicable hourly rates in § 56.46.

(3) A charge at the hourly rates specified in § 56.46, plus actual travel expenses incurred by AMS for intermediate surveys to firms without grading service in effect.

(4) An administrative service charge based upon the aggregate number of 30-dozen cases of all shell eggs handled in the plant per billing period multiplied by $.025, except that the minimum charge per billing period shall be $125 and the maximum charge shall be $1,250. The minimum charge also applies where an approved application is in effect and no product is handled.

(b) *Other provisions.* (1) The applicant shall designate in writing the employees of the applicant who will be required and authorized to furnish each grader with such information as may be necessary for the performance of the grading service.

(2) AMS will provide, as available, an adequate number of graders to perform the grading service. The number of graders required will be determined by AMS based on the expected demand for service.

(3) The grading service shall be provided at the designated plant and shall be continued until the service is suspended, withdrawn, or terminated by:

(i) Mutual consent;

(ii) Thirty (30) days' written notice, by either the applicant or AMS specifying the date of suspension, withdrawal, or termination;

(iii) One (1) day's written notice by AMS to the applicant if the applicant fails to honor any invoice within thirty (30) days after date of invoice covering the cost of the grading service; or

(iv) Action taken by AMS pursuant to the provisions of § 56.31.

(4) Graders will be required to confine their activities to those duties necessary in the rendering of grading service and such closely related activities as may be approved by AMS: *Provided*, That in no instance may the graders assume the duties of management.

[34 FR 8232, May 28, 1969, as amended at 35 FR 19327, Dec. 22, 1970; 36 FR 7893, Apr. 28, 1971; 36 FR 9842, May 29, 1971; 37 FR 9458, May 11, 1972; 38 FR 35228, Dec. 26, 1973; 41 FR 47255, Oct. 28, 1976; 42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and amended at 42 FR 57301, Nov. 2, 1977; 43 FR 60138, Dec. 26, 1978; 46 FR 8, Jan. 2, 1981; 46 FR 49571, Oct. 7, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982; 48 FR 20683, May 9, 1983; 49 FR 2224, Jan. 19, 1984; 49 FR 10540, Mar. 21, 1984]

§ 56.53 Fees or charges for grading service performed under cooperative agreement.

Fees or charges to be made to an applicant for grading service which differ from those listed in §§ 56.45 through 56.54 shall be provided for by a cooperative agreement.

[36 FR 7894, Apr. 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.54 Charges for continuous grading performed on a nonresident basis.

Fees to be charged and collected for grading service on a nonresident grading basis, shall be those provided in this section. The fees to be charged for any appeal grading shall be as provided in § 56.47.

(a) *Charges.* The charges for the grading of shell eggs shall be paid by the applicant for the service and shall include items listed in this section as are applicable. Payment for the full cost of the grading service rendered to the applicant shall be made by the applicant to the Agricultural Marketing Service, U.S. Department of Agriculture (hereinafter referred to as "AMS"). Such full costs shall comprise such of the items listed in this section as are due and included in the bill or bills covering the period or periods during which the grading service was rendered. Bills will be rendered by the 10th day following the end of the billing period in which the service was rendered and are payable upon receipt.

(1) A charge for the salary and other costs, as specified in this paragraph, for each grader while assigned to a plant, except that no charge will be made when the assigned grader is temporarily reassigned by AMS to perform grading service for other than the applicant. Base salary rates will be determined on a national average for all official plants operating in States under a Federal Trust Fund Agreement where Federal graders, State graders, or a combination of Federal and State graders are used, by averaging the salary rates paid to each Federal or State grader assigned to such plants. Charges to plants are as follows:

(i) For all regular hours of work scheduled and approved as an established tour of duty for a plant, the regular rate charge will be made. The regular rate charge will be determined by adding an amount to the base salary rate to cover the costs to AMS for such items as the Employer's Tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for Old Age and Survivor's Benefits under the Social Security System, retirement benefits, group life insurance, severance pay, sick leave, annual leave, additional salary and travel costs for relief grading service, accident payments, certain moving costs, and related servicing costs.

(ii) All hours worked by an assigned grader or another grader in excess of the approved tour of duty, or worked on a nonscheduled workday, or actually worked on a holiday in excess of the tour of duty, will be considered as overtime. The charge for such overtime will be 150 percent of the grader's base salary rate.

(iii) For work performed on a holiday which is within the established tour of duty approved for a plant, the added charge will be the same as the grader's base rate.

(iv) For work performed between 6 p.m. and 6 a.m., night differential charges (for regular, overtime, or holiday hours worked during this period) will be at the applicable rates established plus 10 percent of the base rate.

(v) For work performed on Sunday, Sunday differential charges (for regular, overtime, or holiday hours worked on Sunday) will be at the applicable rates established plus 25 percent of the base rate.

(vi) For all hours of work performed in a plant without an approved tour of duty, the charge will be one of the applicable hourly rates in § 56.46.

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $125 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

(b) *Other provisions.* (1) The applicant shall designate in writing the employees of the applicant who will be required and authorized to furnish each grader with such information as may be necessary for the performance of the grading service.

(2) AMS will provide, as available, an adequate number of graders to perform the grading service. The number of graders required will be determined by AMS based on the expected demand for service.

(3) The grading service shall be provided at designated locations and shall be continued until the service is suspended, withdrawn, or terminated by:

(i) Mutual consent;

(ii) Thirty (30) days' written notice, by either the applicant or AMS specifying the date of suspension, withdrawal, or termination;

(iii) One (1) day's written notice by AMS to the applicant if the applicant fails to honor any invoice within thirty (30) days after date of invoice covering the cost of the grading service; or

(iv) Action taken by AMS pursuant to the provisions of § 56.31.

(4) Graders will be required to confine their activities to those duties necessary in the rendering of grading service and such closely related activities as may be approved by AMS: *Provided,* That in no instance may the graders assume the duties of management.

(5) When similar nonresident grading services are furnished to the same applicant under Part 55 or Part 70 of this chapter, the charges listed in this section shall not be repeated.

[35 FR 19327, Dec. 22, 1970, as amended at 36 FR 7894, Apr. 28, 1971; 36 FR 9842, May 29, 1971; 37 FR 9458, May 11, 1972; 42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and amended at 42 FR 57301, Nov. 2, 1977; 43 FR 60138, Dec. 26, 1978; 46 FR 8, Jan. 2, 1981; 46 FR 49571, Oct. 7, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982; 48 FR 20683, May 9, 1983; 49 FR 2224, Jan. 19, 1984; 49 FR 10540, Mar. 21, 1984]

GRADING CERTIFICATES

§ 56.55 Grading certificates and sampling report forms.

Grading certificates and sampling report forms shall be issued on forms approved by the Administrator.

[20 FR 673, Feb. 1, 1955. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.56 Grading certificate issuance.

(a) *Resident grading basis.* Certificates will be issued only upon request therefor by the applicant or the Service. When requested, a grader shall issue a certificate covering product graded by him. In addition, a grader may issue a grading certificate covering product graded in whole or in part by another grader when the grader has knowledge that the product is eligible for certification based on personal examination of the product or official grading records.

(b) *Other than resident grading.* Each grader shall, in person or by his authorized agent, issue a grading certificate covering each product graded by him. A grader's name may be signed on a grading certificate by a person other than the grader, if such person has been designated as the authorized agent of such grader by the National Supervisor: *Provided*, That the certificate is prepared from an official memorandum of grading signed by the grader: *And provided further*, That a notarized power of attorney authorizing such signature has been issued to such person by the grader and is on file in the office of grading. In such case, the authorized agent shall sign both his own and the grader's name, e.g., "John Doe by Richard Roe."

[36 FR 9841, May 29, 1971, as amended at 36 FR 10937, June 5, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.57 Disposition of grading certificates.

The original and a copy of each grading certificate, issued pursuant to § 56.56, and not to exceed two additional copies thereof if requested by the applicant prior to issuance, shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. Other copies shall be filed and retained in accordance with the disposition schedule for grading program records.

[36 FR 9842, May 29, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

§ 56.58 Advance information.

Upon request of an applicant, all or part of the contents of any grading certificate issued to such applicant may be telephoned or telegraphed to him, or to any person designated by him, at his expense.

[20 FR 673, Feb. 1, 1955. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

APPEAL OF A GRADING OR DECISION

SOURCE: Sections 56.60 through 56.66 appear at 35 FR 9918, June 17, 1970, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981.

§ 56.60 Who may request an appeal grading or review of a grader's decision.

An appeal grading may be requested by any interested party who is dissatisfied with the determination by a grader of the class, quality, quantity, or condition of any product as evidenced by the USDA grademark and accompanying label, or as stated on a grading certificate and a review may be requested by the operator of an official plant with respect to a grader's decision or on any other matter related to grading in the official plant.

§ 56.61 Where to file an appeal.

(a) *Appeal from resident grader's grading or decision in an official plant.* Any interested party who is not satisfied with the determination of the class, quality, quantity, or condition of product which was graded by a grader in an official plant and has not left such plant, and the operator of any official plant who is not satisfied with a decision by a grader on any other matter related to grading in such plant may request an appeal grading or review of the decision by the grader by filing such request with the grader's immediate supervisor.

(b) *All other appeal requests.* Any interested party who is not satisfied with the class, quality, quantity, or condition of product which has left the official plant where it was graded or which was graded other than in an official plant may request an appeal grading by filing such request in the area where the product is located or with the Chief of the Grading Branch.

§ 56.62 How to file an appeal.

Any request for an appeal grading or review of a grader's decision may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the reasons for requesting the appeal service and a description of the product, or the decision which is questioned. If such appeal request is based on the results stated on an official certificate, the original and all available copies of the certificate shall be returned to the appeal grader assigned to make the appeal grading.

§ 56.63 When an application for an appeal grading may be refused.

When it appears to the official with whom an appeal request is filed that the reasons given in the request are frivolous or not substantial, or that the quality or condition of the product has undergone a material change since the original grading, or that the original lot has changed in some manner, or the Act or the regulations in this part have not been complied with, the applicant's request for the appeal grading may be refused. In such case, the applicant shall be promptly notified of the reason(s) for such refusal.

§ 56.64 Who shall perform the appeal.

(a) An appeal grading or review of a decision requested under § 56.61(a) shall be made by the grader's immediate supervisor, or by a licensed grader assigned by the immediate supervisor other than the grader whose grading or decision is being appealed.

(b) Appeal gradings requested under § 56.61(b) shall be performed by a grader other than the grader who originally graded the product.

(c) Whenever practical, an appeal grading shall be conducted jointly by two graders. The assignment of the grader(s) who will make the appeal grading requested under § 56.61(b). shall be made by the regional director or the Chief of the Grading Branch.

[35 FR 9918, June 17, 1970, as amended at 40 FR 20056, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.65 Procedures for appeal gradings.

(a) When all of the originally graded and identified samples are available, the appeal sample shall consist of such samples plus an equal number of samples.

(b) When the original samples are not available, the appeal sample size for the lot shall consist of double the samples required in § 56.4(b).

(c) Shell eggs shall not have been moved from the original place of grading and must have been maintained under adequate refrigeration and humidity conditions.

[35 FR 9918, June 17, 1970. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and as amended at 47 FR 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

§ 56.66 Appeal grading certificates.

Immediately after an appeal grading is completed, an appeal certificate shall be issued to show that the original grading was sustained or was not sustained. Such certificate shall supersede any previously issued certificate for the product involved and shall clearly identify the number and date of the superseded certificate. The issuance of the appeal certificate may be withheld until any previously issued certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Government. When the appeal grader assigns a different grade to the lot, the existing grade mark shall be changed or obliterated as necessary. When the appeal grader assigns a different class or quantity designation to the lot, the labeling shall be corrected.

FACILITY REQUIREMENTS

§ 56.75 Applicability of facility and operating requirements.

The provisions of § 56.76 shall be applicable to any grading service that is provided on a resident basis.

[28 FR 6345, June 20, 1963. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.76 Minimum facility and operating requirements for shell egg grading and packing plants.

(a) *General requirements for buildings and plant facilities.* (1) Buildings shall be of sound construction so as to prevent, insofar as practicable, the entrance or harboring of vermin.

(2) Grading and packing rooms shall be of sufficient size to permit installation of necessary equipment and the conduct of grading and packing in a sanitary manner. These rooms shall be kept reasonably clean during grading and packing operations and shall be thoroughly cleaned at the end of each operating day.

(3) Adequate lavatory and toilet accommodations shall be provided. Toilet and locker rooms shall be maintained in a clean and sanitary condi-

tion. Hot and cold running water shall be provided. Rooms shall be ventilated to the outside of the building. Signs shall be posted in the rest rooms instructing employees to wash their hands before returning to work.

(4) A separate refuse room or a designated area for the accumulation of trash must be provided in plants which do not have a system for the daily removal or destruction of such trash.

(5) Wood benches, platforms, etc., in areas which are subjected to moisture and which develop odors shall be replaced with equipment of metal construction. Wood walls or partitions which develop odors shall be replaced with materials impervious to moisture. Newly constructed plants should be equipped with metal benches, platforms, etc., in areas which are subjected to moisture.

(b) *Grading room requirements.* The grading room shall be adequately darkened to make possible accurate quality determination of the candled appearance of eggs.

(1) There shall be no crossbeams of light, and light reflection from candling lights shall be kept at a minimum.

(2) Candling benches shall be constructed so as to permit cleaning and provide ample shelf space for convenient placement of the different grades to be packed.

(3) The candling lights shall be capable of delivering reasonably uniform intensity of light at the candling aperture to facilitate accurate quality determinations; and the light shall provide ample case light for detection of stained and dirty shells and the condition of the packing materials. In operations utilizing mechanical grading equipment, adequate light shall be provided to facilitate necessary quality determinations, including the detection and removal of stained and dirty shells and the condition of the packing material.

(4) Individual egg scales shall be provided to check accuracy of weight classing.

(5) Weighing equipment, whether manual or automatic, shall be kept reasonably clean and shall be capable of ready adjustment.

(6) Adequate ventilation shall be provided.

(c) *Cooler room requirements.* (1) Cooler rooms shall have refrigeration facilities capable of reducing within 24 hours and holding the maximum volume of eggs handled to 60° F. or below. Accurate thermometers shall be provided.

(2) Cooler rooms shall be free from objectionable odors and from mold, and shall be maintained in a sanitary condition.

(3) All shell egg coolers shall be equipped with a hygrometer or portable equipment such as a psychrometer shall be available to determine the relative humidity. Humidifying equipment capable of maintaining a relative humidity which will minimize shrinkage shall be provided.

(d) *Shell egg protecting operations.* Shell egg protecting (oil processing) operations shall be conducted in a manner to avoid contamination of the product and maximize conservation of its quality.

(1) Eggs with excess moisture on the shell shall not be shell protected.

(2) Oil having any off odor, or that is obviously contaminated, shall not be used in shell egg protection.

(3) Processing oil that has been previously used and which has become contaminated shall be filtered and heat treated at 180° F. for 3 minutes prior to use.

(4) Shell egg processing equipment shall be washed, rinsed, and treated with a bactericidal agent each time the oil is removed. It is preferable to filter and heat treat processing oil and clean processing equipment daily when in use.

(5) Adequate coverage and protection against dust and dirt shall be provided when the equipment is not in use.

(e) *Shell egg cleaning operations.* (1) Shell egg cleaning equipment shall be kept in good repair and shall be cleaned after each day's use or more frequently, if necessary.

(2) The temperature of the wash water shall be maintained at 90° F. or higher, and shall be at least 20° F. warmer than the temperature of the eggs to be washed. These tempera-

tures shall be maintained throughout the cleaning cycle.

(3) An approved cleaning compound shall be used in the wash water. (The use of metered equipment for dispensing the compound into solution is recommended.)

(4) Wash water shall be changed approximately every 4 hours or more often if needed to maintain sanitary conditions, and at the end of each shift. Remedial measures shall be taken to prevent excess foaming during the egg washing operation.

(5) Replacement water shall be added continuously to the wash water of washers to maintain a continuous overflow. Rinse water, chlorine, or quaternary sanitizing rinse may be used as part of the replacement water, provided, they are compatible with the washing compound. Iodine sanitizing rinse may not be used as part of the replacement water.

(6) Only potable water may be used to wash eggs. Each official plant shall submit certification to the national office stating that their water supply is potable. An analysis of the iron content of the water supply, stated in parts per million, is also required. When the iron content exceeds 2 parts per million, equipment shall be provided to correct the excess iron content. Frequency of testing shall be determined by the Administrator. When the water source is changed, new tests are required.

(7) Waste water from the egg washing operation shall be piped directly to drains.

(8) The washing and drying operation shall be continuous and shall be completed as rapidly as possible. Eggs shall not be allowed to stand or soak in water. Immersion-type washers shall not be used.

(9) Prewetting shell eggs prior to washing may be accomplished by spraying a continuous flow of water over the eggs in a manner which permits the water to drain away or other methods which may be approved by the Administrator. The temperature of the water shall be the same as prescribed in this section.

(10) Washed eggs shall be spray rinsed with warm water containing an approved sanitizer of not less than 50 p/m nor more than 200 p/m of available chlorine or its equivalent.

(11) Test kits shall be provided and used to determine the strength of the sanitizing solution.

(12) During any rest period, eggs shall be removed from the washing and rinsing area of the egg washer and from the scanning area whenever there is a buildup of heat.

(13) Washed eggs shall be reasonably dry before cartoning or casing.

(14) When steam or vapors originate from the washing operation, they shall be continuously and directly removed to the outside of the building.

(f) *Requirements for eggs which are to be marked with official U.S. identification mark.* (1) Shell eggs held in the official plant shall be placed under refrigeration of 60° F. or lower promptly after packaging. Officially identified shell eggs with an internal temperature of 70° F. or higher when shipped from the official plant should be transported at a temperature of 60° F. or less.

(2) Every reasonable precaution shall be exercised to prevent "sweating" of eggs.

(3) Eggs which are to be officially identified with consumer grademarks shall be packaged only in new or good used cases and packing materials. Cases and packing materials must be reasonably clean, free of mold, mustiness and off odors and must be of sufficient strength and durability to adequately protect the eggs during normal distribution.

(g) The following substances used in the plant shall be approved and handled in accordance with the manufacturer's instructions: Pesticides, insecticides, rodenticides, cleaning compounds, destaining compounds, foam control compounds, sanitizers, and inks and oils coming into contact with the product.

[20 FR 674, Feb. 1, 1955, as amended at 22 FR 8168, Oct. 16, 1957; 28 FR 6346, June 20, 1963; 32 FR 8232, June 8, 1967; 35 FR 5664, Apr. 8, 1970; 40 FR 20056, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 39571, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

§ 56.77 Health and hygiene of personnel.

(a) No person known to be affected by a communicable or infectious disease shall be permitted to come in contact with the product.

(b) Plant personnel coming into contact with the product shall wear clean clothing.

[32 FR 8232, June 8, 1967. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

Subpart B—[Reserved]

Subpart C—United States Standards, Grades, and Weight Classes for Shell Eggs

UNITED STATES STANDARDS FOR QUALITY OF INDIVIDUAL SHELL EGGS

§ 56.200 Application.

(a) The United States standards for quality of individual shell eggs contained in this subpart are applicable only to eggs that are the product of the domesticated chicken hen and are in the shell.

(b) Interior egg quality specifications for these standards are based on the apparent condition of the interior contents of the egg as it is twirled before the candling light. Any type or make of candling light may be used that will enable the particular grader to make consistently accurate determination of the interior quality of shell eggs. It is desirable to break out an occasional egg and by determining the Haugh unit value of the broken-out egg, compare the broken-out and candled appearance, thereby aiding in correlating candled and broken-out appearance.

[28 FR 6346, June 20, 1963. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 39571, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.201 AA Quality.

The shell must be clean, unbroken, and practically normal. The air cell must not exceed $\frac{1}{8}$ inch in depth, may show unlimited movement, and may be free or bubbly. The white must be clear and firm so that the yolk is only slightly defined when the egg is twirled before the candling light. The yolk must be practically free from apparent defects.

[38 FR 26798, Sept. 26, 1973. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.202 A Quality.

The shell must be clean, unbroken, and practically normal. The air cell must not exceed $\frac{3}{16}$ inch in depth, may show unlimited movement, and may be free or bubbly. The white must be clear and at least reasonably firm so that the yolk outline is only fairly well defined when the egg is twirled before the candling light. The yolk must be practically free from apparent defects.

[38 FR 26798, Sept. 26, 1973. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.203 B Quality.

The shell must be unbroken, may be abnormal, and may have slightly stained areas. Moderately stained areas are permitted if they do not cover more than $\frac{1}{32}$ of the shell surface if localized, or $\frac{1}{16}$ of the shell surface if scattered. Eggs having shells with prominent stains or adhering dirt are not permitted. The air cell may be over $\frac{3}{16}$ inch in depth, may show unlimited movement, and may be free or bubbly. The white may be weak and watery so that the yolk outline is plainly visible when the egg is twirled before the candling light. The yolk may appear, dark, enlarged, and flattened, and may show clearly visible germ development but no blood due to such development. It may show other serious defects that do not render the egg inedible. Small blood spots or meat spots (aggregating not more than $\frac{1}{8}$ inch in diameter) may be present.

[46 FR 39571, Aug. 4, 1981; 46 FR 42441, Aug. 21, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.204 [Reserved]

§ 56.205 Dirty.

An individual egg that has an unbroken shell with adhering dirt or foreign material, prominent stains, or moderate stains covering more than $\frac{1}{32}$ of the shell surface if localized, or 1/16 of the shell surface if scattered.

[46 FR 39571, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.206 Check.

An individual egg that has a broken shell or crack in the shell but with its shell membranes intact and its contents do not leak. A "check" is considered to be lower in quality than a "dirty."

[32 FR 8232, June 8, 1967. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.208 Terms descriptive of the shell.

(a) *Clean.* A shell that is free from foreign material and from stains or discolorations that are readily visible. An egg may be considered clean if it has only very small specks, stains, or cage marks, if such specks, stains, or cage marks are not of sufficient number or intensity to detract from the generally clean appearance of the egg. Eggs that show traces of processing oil on the shell are considered clean unless otherwise soiled.

(b) *Dirty.* A shell that is unbroken and that has dirt or foreign material adhering to its surface, which has prominent stains, or moderate stains covering more than 1/32 of the shell surface if localized, or 1/16 of the shell surface if scattered.

(c) *Practically normal (AA or A quality).* A shell that approximates the usual shape and that is sound and is free from thin spots. Ridges and rough areas that do not materially affect the shape and strength of the shell are permitted.

(d) *Abormal (B quality).* A shell that may be somewhat unusual or decidedly misshapen or faulty in soundness or strength or that may show pronounced ridges or thin spots.

[46 FR 39571, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.209 Terms descriptive of the air cell.

(a) *Depth of air cell (air space between shell membranes, normally in the large end of the egg).* The depth of the air cell is the distance from its top to its bottom when the egg is held air cell upward.

(b) *Free air cell.* An air cell that moves freely toward the uppermost point in the egg as the egg is rotated slowly.

(c) *Bubbly air cell.* A ruptured air cell resulting in one or more small separate air bubbles usually floating beneath the main air cell.

[38 FR 26798, Sept. 26, 1973. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.210 Terms descriptive of the white.

(a) *Clear.* A white that is free from discolorations or from any foreign bodies floating in it. (Prominent chalazas should not be confused with foreign bodies such as spots or blood clots.)

(b) *Firm (AA quality).* A white that is sufficiently thick or viscous to prevent the yolk outline from being more than slightly defined or indistinctly indicated when the egg is twirled. With respect to a broken-out egg, a firm white has a Haugh unit value of 72 or higher when measured at a temperature between 45° and 60° F.

(c) *Reasonably firm (A quality).* A white that is somewhat less thick or viscous than a firm white. A reasonably firm white permits the yolk to approach the shell more closely which results in a fairly well defined yolk outline when the egg is twirled. With respect to a broken-out egg, a reasonably firm white has a Haugh unit value of 60 to 72 when measured at a temperature between 45° and 60° F.

(d) *Weak and watery (B quality).* A white that is weak, thin, and generally lacking in viscosity. A weak and watery white permits the yolk to approach the shell closely, thus causing the yolk outline to appear plainly visible and dark when the egg is twirled. With respect to a broken-out egg, a weak and watery white has a Haugh unit value lower than 60 when measured at a temperature between 45° and 60° F.

(e) *Blood spots or meat spots.* Small blood spots or meat spots (aggregating not more than 1/8 inch in diameter) may be classified as B quality. If larger, or showing diffusion of blood into the white surrounding a blood spot, the egg shall be classified as

Loss. Blood spots shall not be due to germ development. They may be on the yolk or in the white. Meat spots may be blood spots which have lost their characteristic red color or tissue from the reproductive organs.

(f) *Bloody white.* An egg which has blood diffused through the white. Eggs with bloody whites are classed as loss. Eggs with blood spots which show a slight diffusion into the white around the localized spot are not to be classed as bloody whites.

[20 FR 676, Feb. 1, 1955, as amended at 31 FR 2774, Feb. 16, 1966; 42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 39571, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.211 Terms descriptive of the yolk.

(a) *Outline slightly defined (AA quality).* A yolk outline that is indistinctly indicated and appears to blend into the surrounding white as the egg is twirled.

(b) *Outline fairly well defined (A quality).* A yolk outline that is discernible but not clearly outlined as the egg is twirled.

(c) *Outline plainly visible (B quality).* A yolk outline that is clearly visible as a dark shadow when the egg is twirled.

(d) *Enlarged and flattened (B quality).* A yolk in which the yolk membranes and tissues have weakened and/or moisture has been absorbed from the white to such an extent that the yolk appears definitely enlarged and flat.

(e) *Practically free from defects (AA or A quality).* A yolk that shows no germ development but may show other very slight defects on its surface.

(f) *Serious defects (B quality).* A yolk that shows well developed spots or areas and other serious defects, such as olive yolks, which do not render the egg inedible.

(g) *Clearly visible germ development (B quality).* A development of the germ spot on the yolk of a fertile egg that has progressed to a point where it is plainly visible as a definite circular area or spot with no blood in evidence.

(h) *Blood due to germ development.* Blood caused by development of the germ in a fertile egg to the point where it is visible as definite lines or as a blood ring. Such an egg is classified as inedible.

[46 FR 39571, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.212 General terms.

(a) *Loss.* An egg that is inedible, cooked, frozen, contaminated, or containing bloody whites, large blood spots, large unsightly meat spots, or other foreign material.

(b) *Inedible eggs.* Eggs of the following descriptions are classed as inedible: black rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, eggs containing embryo chicks (at or beyond the blood ring state), and any eggs that are adulterated as such term is defined pursuant to the Federal Food, Drug, and Cosmetic Act.

(c) *Leaker.* An individual egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exuding or free to exude through the shell.

[20 FR 677, Feb. 1, 1955, as amended at 31 FR 2774, Feb. 16, 1966; 32 FR 8232, June 8, 1967. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

UNITED STATES GRADES AND WEIGHT CLASSES FOR SHELL EGGS

§ 56.215 General.

(a) These grades are applicable to edible shell eggs in "lot" quantities rather than on an "individual" egg basis. A lot may contain any quantity of two or more eggs. Reference in these standards to the term "case" means 30-dozen egg cases as used in commercial practices in the United States. The size of the sample used to determine grade shall be on the basis of the requirements of § 56.4 or as determined by the National Supervisor.

(b) Terms used in this part that are defined in the United States Standards For Quality Of Individual Shell Eggs (§ 56.200 et seq.) have the same meaning in this part as in those standards.

(c) Aggregate tolerances are permitted within each grade only as an allowance for variable efficiency and interpretation of graders, normal changes under favorable conditions during reasonable periods between grading, and reasonable variation of graders' interpretation.

(d) Substitution of higher qualities for the lower qualities specified is permitted.

(e) "No grade" means eggs of possible edible quality that fail to meet the requirements of an official U.S. Grade or that have been contaminated by smoke, chemicals, or other foreign material which has seriously affected the character, appearance, or flavor of the eggs.

[20 FR 677, Feb. 1, 1955, as amended at 28 FR 6346, June 20, 1963; 32 FR 8232, June 8, 1967. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 39571, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

UNITED STATES CONSUMER GRADES AND WEIGHT CLASSES FOR SHELL EGGS

§ 56.216 Grades.

(a) *U.S. Grade AA.* (1) U.S. Consumer Grade AA (at origin) shall consist of eggs which are at least 87 percent AA quality. The maximum tolerance of 13 percent which may be below AA quality may consist of A or B quality in any combination, except that within the tolerance for B quality not more than 1 percent may be B quality due to air cells over ⅜ inch, blood spots (aggregating not more than ⅛ inch in diameter), or serious yolk defects. Not more than 5 percent (7 percent for Jumbo size) Checks are permitted and not more than 0.50 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted.

(2) U.S. Consumer Grade AA (destination) shall consist of eggs which are at least 72 percent AA quality. The remaining tolerance of 28 percent shall consist of at least 10 percent A quality and the remainder shall be B quality, except that within the tolerance for B quality not more than 1 percent may be B quality due to air cells over ⅜ inch, blood spots (aggregating not more than ⅛ inch in diameter), or serious yolk defects. Not more than 7 percent (9 percent for Jumbo size) Checks are permitted and not more than 1 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted.

(b) *U.S. Grade A.* (1) U.S. Consumer Grade A (at origin) shall consist of eggs which are at least 87 percent A quality or better. Within the maximum tolerance of 13 percent which may be below A quality, not more than 1 percent may be B quality due to air cells over ⅜ inch, blood spots (aggregating not more than ⅛ inch in diameter), or serious yolk defects. Not more than 5 percent (7 percent for Jumbo size) Checks are permitted and not more than 0.50 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted.

(2) U.S. Consumer Grade A (destination) shall consist of eggs which are at least 82 percent A quality or better. Within the maximum tolerance of 18 percent which may be below A quality, not more than 1 percent may be B quality due to air cells over ⅜ inch, blood spots (aggregating not more than ⅛ inch in diameter), or serious yolk defects. Not more than 7 percent (9 percent for Jumbo size) Checks are permitted and not more than 1 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted.

(c) *U.S. Grade B.* (1) U.S. Consumer Grade B (at origin) shall consist of eggs which are at least 90 percent B quality or better, not more than 10 percent may be Checks and not more than 0.50 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted.

(2) U.S. Consumer Grade B (destination) shall consist of eggs which are at least 90 percent B quality or better, not more than 10 percent may be

Checks and not more than 1 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted.

(d) Additional tolerances:

(1) In lots of two or more cases:

(i) For Grade AA—No individual case may exceed 10 percent less AA quality eggs than the minimum permitted for the lot average.

(ii) For Grade A—No individual case may exceed 10 percent less A quality eggs than the minimum permitted for the lot average.

(iii) For Grade B—No individual case may exceed 10 percent less B quality eggs than the minimum permitted for the lot average.

(2) For Grades AA, A, and B, no lot shall be rejected or downgraded due to the quality of a single egg except for Loss other than blood or meat spots.

[46 FR 39572, Aug. 4, 1981; 46 FR 42441, Aug. 21, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.217 Summary of grades.

The summary of U.S. Consumer Grades for Shell Eggs follows as Table I and Table II of this section:

TABLE I—SUMMARY OF U.S. CONSUMER GRADES FOR SHELL EGGS

U.S. consumer grade (origin)	Quality required [1]	Tolerance permitted [2]	
		Percent	Quality
Grade AA	87 percent AA.	Up to 13	A or B.[5]
		Not over 5	Checks.[6]
Grade A	87 percent A or better.	Up to 13	B.[5]
		Not over 5	Checks.[6]
Grade B	90 percent B or better.	Not over 10	Checks.

U.S. consumer grade (destination)	Quality required [1]	Tolerance permitted [3]	
		Percent	Quality
Grade AA	72 percent AA	Up to 28[4]	A or B.[5]
		Not over 7	Checks.[6]
Grade A	82 percent A or better.	Up to 18	B.[5]
		Not over 7	Checks.[6]
Grade B	90 percent B or better.	Not over 10.	Checks.

[1] In lots of two or more cases, see Table II of this section for tolerances for an individual case within a lot.

[2] For the U.S. Consumer grades (at origin), a tolerance of 0.50 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination is permitted, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted.

[3] For the U.S. Consumer grades (destination), a tolerance of 1 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination is permitted, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted.

[4] For U.S. Grade AA at destination, at least 10 percent must be A quality or better.

[5] For U.S. Grade AA and A at origin and destination within the tolerances permitted for B quality, not more than 1 percent may be B quality due to air cells over ³⁄₁₆ inch, blood spots (aggregating not more than ⅛ inch in diameter), or serious yolk defects.

[6] For U.S. Grades AA and A Jumbo size eggs, the tolerance for Checks at origin and destination is 7 percent and 9 percent, respectively.

TABLE II—TOLERANCE FOR INDIVIDUAL CASE WITHIN A LOT

U.S. consumer grade	Case quality	Origin (percent)	Destination (percent)
Grade AA	AA (min)	77	62
	A or B	13	28
	Check (max)	10	10
Grade A	A (min)	77	72
	B	13	18
	Check (max)	10	10
Grade B	B (min)	80	80
	Check (max)	20	20

[46 FR 39572, Aug. 4, 1981; 46 FR 42441, Aug. 21, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.218 Weight classes.

(a) The weight classes for U.S. Consumer Grades for Shell Eggs shall be as indicated in Table I of this section and shall apply to all consumer grades.

TABLE I—U.S. WEIGHT CLASSES FOR CONSUMER GRADES FOR SHELL EGGS

Size or weight class	Minimum net weight per dozen (ounces)	Minimum net weight 30 per dozen (pounds)	Minimum net weight for individual eggs at rate per dozen (ounces)
Jumbo	30	56	29
Extra large	27	50½	26
Large	24	45	23
Medium	21	39½	20
Small	18	34	17
Peewee	15	28	

(b) A lot average tolerance of 3.3 percent for individual eggs in the next lower weight class is permitted as long as no individual case within the lot exceeds 5 percent.

[20 FR 677, Feb. 1, 1955, as amended at 20 FR 10015, Dec. 29, 1955; 32 FR 8233, June 8, 1967. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

UNITED STATES WHOLESALE GRADES AND WEIGHT CLASSES FOR SHELL EGGS

§ 56.226 Grades.

(a) "U.S. Specials—% AA Quality" shall consist of eggs of which at least 20 percent are AA quality; and the actual percentage of AA quality eggs shall be stated in the grade name. Within the maximum of 80 percent which may be below AA quality, not more than 7.5 percent may be B quality, Dirties, or Checks in any combination and not more than 2.0 percent may be Loss.

(b) "U.S. Extras—% A Quality" shall consist of eggs of which at least 20 percent are A quality; and the actual total percentage of A quality and better shall be stated in the grade name. Within the maximum of 80 percent which may be below A quality, not more than 11.7 percent may be Dirties or Checks in any combination and not more than 3.0 percent may be Loss.

(c) "U.S. Standards—% B Quality" shall consist of eggs of which at least 84.3 percent are B quality; and the actual total percentage of B quality and better shall be stated in the grade name. Within the maximum of 15.7 percent which may be below B quality, not more than 11.7 percent may be Dirties or Checks in any combination and not more than 4.0 percent may be Loss.

[46 FR 39572, Aug. 4, 1981; 46 FR 42441, Aug. 21, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.227 Summary of grades.

A summary of the United States Wholesale Grades for Shell Eggs follows as Table I of this section:

TABLE I—SUMMARY OF U.S. WHOLESALE GRADES FOR SHELL EGGS

Wholesale grade designation	Minimum percentage of eggs of specific qualities required[1]			Maximum tolerance permitted (lot average)		
	AA quality	A quality or better	B quality or better	B quality dirties and checks (percent)	Dirties and checks (percent)	Loss (percent)
U.S. specials—percent AA quality[2]	20	(3)	(4)	7.5		2
U.S. extras—percent A quality[2]		20	(3)		11.7	3
U.S. standards—percent B quality[2]			84.3		11.7	4

[1] Substitution of eggs possessing higher qualities for those possessing lower specified qualities is permitted.

[2] The actual total percentage must be stated in the grade name.

[3] Balance.

[4] None except for tolerance.

[46 FR 39573, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.228 Weight classes.

(a) The weight classes for United States Wholesale Grades for Shell Eggs shall be as indicated in Table I of this section.

TABLE I—WEIGHT CLASSES FOR UNITED STATES WHOLESALE GRADES FOR SHELL EGGS

Weight classes	Per 30 dozen eggs		Weights for individual eggs at rate per dozen	
	Average net weight on a lot[1] basis	Minimum net weight individual case[2] basis	Minimum weight	Weight variation tolerance for not more than 10 percent, by count, of individual eggs
	At least—			
Extra large	50½ pounds	50 pounds	26 ounces	Under 26 but not under 24 ounces.
Large	45 pounds	44 pounds	23 ounces	Under 23 but not under 21 ounces.
Medium	39½ pounds	39 pounds	20 ounces	Under 20 but not under 18 ounces.
Small	34 pounds	None	None	None.

[1] Lot means any quantity of 30 dozen or more eggs.
[2] Case means standard 30 dozen egg case as used in commercial practice in the United States.

[20 FR 679, Feb. 1, 1955, as amended at 20 FR 4176, June 15, 1955, 20 FR 10015, Dec. 29, 1955. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 39573, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

U.S. NEST-RUN GRADE AND WEIGHT CLASSES FOR SHELL EGGS

§ 56.230 Grade.

"U.S. Nest Run—% AA Quality" shall consist of eggs of current production of which at least 20 percent are AA quality; and the actual percentage of AA quality eggs shall be stated in the grade name. Within the maximum of 15 percent which may be below A quality, not more than 10 percent may be B quality for shell shape, interior quality (including meat or blood spots), or due to rusty or blackish-appearing cage marks or blood stains, not more than 5 percent may have adhering dirt or foreign material on the shell ½ inch or larger in diameter, not more than 6 percent may be Checks, and not more than 3 percent may be Loss. Marks which are slightly gray in appearance and adhering dirt or foreign material on the shell less than ½ inch in diameter are not considered quality factors. The eggs shall be officially graded for all other quality factors. No case may contain less than 75 percent A quality and AA quality eggs in any combination.

[46 FR 39573, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.231 Summary of grade.

A summary of the U.S. Nest-Run Grade for Shell Eggs follows in Table I of this section:

TABLE I—SUMMARY OF U.S. NEST-RUN GRADE FOR SHELL EGGS

Nest-run grade, description[2]	Minimum percentage of quality required (lot average)[1]		Maximum percentage tolerance permitted (15 percent lot average)[1]			
	AA quality[3]	A quality or better[4]	B quality for shell shape, interior quality (including blood and meat spots), or cage marks[5] and blood stains	Checks	Loss	Adhering dirt or foreign material ½ inch or larger in diameter
U.S. nest-run—percent AA quality[6]	20	85	10	6	3	5

[1] Substitution of eggs of higher qualities for lower specified qualities is permitted.
[2] Stains (other than rusty or blackish appearing cage marks or blood stains), and adhering dirt and foreign material on the shell less than ½ inch in diameter shall not be considered as quality factors in determining the grade designation.
[3] No case may contain less than 10 percent AA quality.
[4] No case may contain less than 75 percent A quality and AA quality eggs in any combination.
[5] Cage marks which are rusty or blackish in appearance shall be considered as quality factors. Marks which are slightly gray in appearance are not considered as quality factors.
[6] The actual total percentage must be stated in the grade name.

[37 FR 22791, Oct. 25, 1972, as amended at 40 FR 20056, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 39573, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 56.232 Weight classes.

The weight classes for the U.S. Nest-Run Grade for Shell Eggs shall be as indicated in Table I of this section and shall apply to Nest-Run Grade.

TABLE I—WEIGHT CLASSES FOR U.S. NEST RUN GRADE FOR SHELL EGGS

Weight classes	Minimum average net weight on lot basis 30-dozen cases (pounds)
Class XL	51
Class 1	48
Class 2	45
Class 3	42
Class 4	39

No individual sample case may vary more than 2 pounds (plus or minus) from the lot average.

[37 FR 22791, Oct. 25, 1972. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 56.234 Packaging material.

(a) The following are suggested types for new standard fiber cases:

Type C Case

(1) Solid or double-faced corrugated fiber.

(2) 65-pound box with 220 pounds per square inch bursting strength.

(3) The fiberboard of which the box is made must be scored and folded so as to provide double thickness over entire area of ends and sides. Also, the bottoms and center partitions must consist of at least 2 thicknesses of such fiberboard.

(4) The center partitions must be held firmly in position in center of case.

Type D Case

(1) Cases made of double-faced corrugated fiberboard with not less than 200 pounds bursting strength *and* must have, in addition, an asphalted corrugating sheet not less than 0.013 inch thick.

(2) The fiberboard of which the box is made must be scored and folded so as to provide double thickness over entire area of bottom and ends. Center partition must consist of at least 2 thicknesses of such fiberboard and must be held firmly in position in center of case.

Type E Case

(1) Double-faced corrugated fiberboard of at least 4-ply solid fiberboard.

(2) 90-pound box.

(3) The fiberboard of which the box is made must be scored and folded so as to provide double thickness over entire areas of at least 2 of the 4 following parts: bottoms, ends, sides and center partition.

(4) Center partition must be held in position in center of case.

Type F Case

(1) Double-faced corrugated fiberboard.

(2) 65-pound box with 220 pounds per square inch of bursting strength.

(3) Center partition must be of double thickness and not less than 200 pounds per square inch bursting strength. Also, a flange on each side not less than ⅞ of an inch wide which must be fastened to sidewalls with at least 5 staples equally spaced between top and bottom.

(4) The two thicknesses forming center partition must be stapled together.

(5) Fiberboard forming center partition must extend over entire area of bottom providing double thickness.

(6) Ends must be double wall corrugated fiberboard, testing not less than 350 pounds with flanges not less than ⅞ of an inch forming recessed ends. End must be stapled to sidewalls and bottom with not less than 6 staples.

(b) Each case must bear the certificate of the box maker that the box conforms to all construction requirements of the Uniform or Consolidated Freight Classification; also, this mark should show the bursting test (200 to 220 pounds per square inch) and the gross weight (65 or 90 pounds) of box.

(c) Sealing: The tops of all cases must be closed securely so they will not open during transportation, by applying a 3-inch gummed tape over all seams (made by the closing of the case). The tape shall extend down the sides and ends of the cases not less than 3 inches.

[24 FR 6640, Aug. 15, 1959, as amended at 32 FR 8234, June 8, 1967. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

PART 57—UNITED STATES STANDARDS FOR HAY AND STRAW

Subpart A—United States Standards for Hay

Sec.
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57.3 Alfalfa and Alfalfa Mixed hay (Group I).
57.4 Timothy and Clover hay (Group II).
57.5 Prairie hay (Group III).

Sec.
57.6 Johnson and Johnson Mixed hay (Group IV).
57.7 Grain, Wild Oat, Vetch, and Grain Mixed hay (Group V).
57.8 Lespedeza and Lespedeza Mixed hay (Group VI).
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57.11 Peanut and Peanut Mixed hay (Group IX).
57.12 Grass hay (Group X).
57.13 Mixed hay (Group XI).

Subpart B—United States Standards for Straw

57.50 Terms identified.
57.51 Principles governing application of standards.
57.52 Grades for straw.

AUTHORITY: 60 Stat. 1087, 62 Stat. 507; 7 U.S.C. 1621-1627, 414.

SOURCE: 14 FR 3433, June 24, 1949; 19 FR 57, Jan. 6, 1954, unless otherwise noted.

NOTE: The specifications of standards set forth in this part shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

Subpart A—United States Standards for Hay

§ 57.1 Terms identified.

For the purposes of the United States standards for hay:

(a) *Hay.* Hay shall be the harvested, unthreshed herbage of forage plants which meets requirements of any one of the various classes of groups I to XI, inclusive, as set forth in this subpart; is not both coarse and woody; contains not more than 35 percent of foreign material; and contains not more than 35 percent of moisture. The term "hay" shall include peanut vines from which the peanuts have been removed.

(b) *Groups.* The standards for hay shall be divided into eleven groups as follows: Group I, Alfalfa and Alfalfa Mixed hay; Group II, Timothy and Clover hay; Group III, Prairie hay; Group IV, Johnson and Johnson Mixed hay; Group V, Grain, Wild Oat, Vetch, and Grain Mixed hay; Group VI, Lespedeza and Lespedeza Mixed hay; Group VII, Soybean and Soybean Mixed hay; Group VIII, Cowpea and Cowpea Mixed hay; Group IX, Peanut and Peanut Mixed hay; Group X, Grass hay; and Group XI, Mixed hay.

(c) *Classes.* Each group of hay includes one or more classes which are based on the kind of hay or mixture of various kinds.

(d) *Grades and grade designations.* Grades are the numerical grades, sample grade, and special grades provided for in the classes of hay. A grade designation is the formal expression of the class, quality, and condition of a lot or sample of hay and consists of the letters U.S., the grade number or Sample grade, the name of any applicable special grade or grades; and the class name.

(e) *Forage plants.* Forage plants shall be grasses, legumes, sedges, and rushes, which are harvested for hay and which have recognized feed value as determined by the Federal Grain Inspection Service, United States Department of Agriculture.

(f) *Alfalfa.* Alfalfa may include not more than 10 percent (of the total forage plants) of clover, vetch hay, and/or other forage legumes, except that other legumes shall not be considered a part of the alfalfa in either of the classes Alfalfa Clover Mixed hay or Mixed hay.

(g) *Timothy.* Timothy may include not more than 10 percent (of the total forage plants) of other grasses, except that other grasses shall not be considered a part of the timothy in any of the classes Timothy Light Grass Mixed hay, Timothy Heavy Grass Mixed hay, Grass hay, or Mixed hay.

(h) *Clover.* Clover shall be red clover, alsike clover, and/or white clover and may include not more than 10 percent (of the total forage plants) of alfalfa, vetch hay, and/or other forage legumes, except that alfalfa shall not be considered a part of the clover in the class Alfalfa Clover Mixed hay and other legumes shall not be considered a part of the clover in the class Mixed hay.

(i) *Upland grasses.* Upland grasses shall be bluestems (Andropogon spp.), gramagrasses (Bouteloua spp.), paspalums (Paspalum spp.), wheatgrasses (Agropyron spp.), prairie Junegrass (Koeleria cristata), Indiangrass (Sorghastrum nutans), and/or other upland grasses which grow commonly in virgin upland prairie meadows. Upland grasses may include not more than 10 percent (of the total forage plants) of midland grasses and/or other grasses, except that midland grasses shall not be considered a part of the upland grasses in any of the classes Midland Prairie hay, Upland-Midland Prairie Mixed hay, Grass hay, or Mixed hay and other grasses shall not be considered a part of the upland grasses in either of the classes Grass hay or Mixed hay.

NOTE: Questions relating to, or samples of, the kinds of grasses that may be included in upland grasses should be submitted to the Federal Grain Inspection Service, United States Department of Agriculture, for determination or interpretation.

(j) *Midland grasses.* Midland grasses shall be sloughgrass or prairie cordgrass (Spartina pectinata), bluejoint (Calamagrostis spp.), and/or sprangletop (Fluminea festucacea).

(k) *Grasses.* Grasses shall be any of the following, singly or in combination: (1) Redtop, orchardgrass, Kentucky bluegrass, Canada bluegrass, crabgrass, smooth bromegrass, ryegrass, barnyardgrass, quackgrass, paspalums, Bermuda grass, wheatgrasses; (2) the following grasses if early cut—wild-rye, annual bromegrasses (such as cheat), pigeongrass (sometimes called foxtail or wild millet), broomsedge; (3) such other grasses, sedges, and/or rushes as occur in hay meadows and are not otherwise provided for. Grasses may also include not more than 10 percent (of the total forage plants) of timothy, Johnson grass and/or grain hay, except that they shall not be considered a part of grasses in either of the classes Grass hay or Mixed hay.

(l) *Johnson grass.* Johnson grass may include not more than 10 percent (of the total forage plants) of other grasses and not more than 10 percent (of the total forage plants) of early-cut cane hay, except that other grasses shall not be considered a part of the Johnson grass in any of the classes Johnson Light Grass Mixed hay, Johnson Heavy Grass Mixed hay, Grass hay, or Mixed hay.

(m) *Oat hay.* Oat hay shall be hay, of all varieties of tame oats, which does not meet the requirements for red oat hay, and may include not more than 10 percent (of the total forage plants) of wheat hay and/or wild oat hay, and not more than 5 percent (of the total forage plants) of barley hay and/or grasses.

(n) *Red oat hay.* Red oat hay may include not more than 10 percent (of the total forage plants) of other varieties of tame oat hay, wheat hay, and/or wild oat hay, and not more than 5 percent (of the total forage plants) of barley hay and/or grasses.

(o) *Wheat hay.* Wheat hay may include not more than 10 percent (of the total forage plants) of oat hay and/or wild oat hay, and not more than 5 percent (of the total forage plants) of barley hay and/or grasses.

(p) *Wild oat hay.* Wild oat hay may include not more than 10 percent (of the total forage plants) of grasses.

(q) *Barley hay.* Barley hay may include not more than 10 percent (of the total forage plants) of other grain hay and not more than 5 percent (of the total forage plants) of grasses.

(r) *Grain hay.* Grain hay shall be hay of the following grains: oats, barley, wheat, rye, and/or wild cats.

(s) *Vetch hay.* Vetch hay may include not more than 10 percent (of the total forage plants) of alfalfa, clover, and/or other forage legumes, except that other legumes shall not be considered a part of the vetch hay in the class Mixed hay.

(t) *Lespedeza.* Lespedeza (annual) may include not more than 10 percent (of the total forage plants) of alfalfa clover, vetch hay, and/or other forage legumes, except that other legumes shall not be considered a part of the lespedeza in the class Mixed hay.

(u) *Soybean hay.* Soybean hay may include not more than 10 percent (of the total forage plants) of cowpea hay, lespedeza, black medic (yellow trefoil), vetch hay, clover and/or other forage legumes, except that other legumes shall not be considered a part of the soybean hay in the class Mixed hay.

(v) *Cowpea hay.* Cowpea hay may include not more than 10 percent (of the total forage plants) of soybean hay, lespedeza, and/or other forage legumes, except that other legumes shall not be considered a part of the cowpea hay in the class Mixed hay.

(w) *Peanut hay.* Peanut hay shall be the leaves and stems of the peanut plant, including such portions of the roots and peanut pods as are normally present either before or after the peanuts have been removed, and may include not more than 10 percent (of the total forage plants) of soybean hay and/or other forage legumes, except that other legumes shall not be considered a part of the peanut hay in the class Mixed hay.

(x) *Legumes.* Legumes shall be alfalfa, lespedeza, black medic (yellow trefoil), vetch hay, clover, and/or other plants of the pea family suitable for forage.

(y) *Foreign material.* Foreign material shall be any of the following, singly or in combination: (1) Weeds, three-awn or wire grasses (Aristida spp.), ticklegrass or winter bent (Agrostis hiemalis), lovegrasses (Eragrostis spp.); (2) the following grasses if mature—wild-rye, annual bromegrasses (such as cheat), pigeongrass (sometimes called foxtail or wild millet), broomsedge, needlegrasses (Stipa spp.) from which the needles have fallen; (3) such sedges, rushes, and/or other plants as are coarse and woody or otherwise not suitable for feeding purposes; (4) overripe grain hay, cornstalks, grain straw, stubble, chaff; and (5) other objectionable matter which occurs naturally in hay.

(z) *Injurious foreign material.* Injurious foreign material shall be any of the following, singly or in combination: Sandburs, poisonous plants, harsh bearded grasses (such as mature foxtail barley or squirreltailgrass, Hordeum jubatum), mature ripgut or broncho grass (Bromus rigidus), grasses having a sharp-pointed callus at the base of the seed (such as matured needlegrasses (Stipa spp.) with the needles attached), mature prairie three-awngrass (Aristida oligantha), and other matter which is injurious when fed to livestock.

(aa) *Filled grain.* Filled grain in any of the grain hays shall be the kernels of grain which have reached the late dough stage and which may shrivel somewhat in drying.

(bb) *Color.* The term "percent of green color" refers to the amount of green color (green appearance), in field-cured hay, computed as a percentage of the 100-percent green color of hay produced so as to have received no discoloration from maturity, sun bleach, dew, rain, or other damage.

NOTE: Field-cured hay which on casual examination appears to be of uniform green color, nearly always contains slight discolorations which materially lower the amount of green color from the perfect color standard. Thus the standard for the No. 1 grade in the various groups of hay represents an amount of color that is relatively high for field-cured hay.

(Sec. 203 (c), (h), Pub. L. 79-733, 60 Stat. 1087 (c), (h), (7 U.S.C. 1622 (c), (h)))

[14 FR 3433, June 24, 1949; 19 FR 57, Jan. 6, 1954, as amended at 48 FR 17330, Apr. 22, 1983]

§ 57.2 Principles governing application of standards.

The following principles shall apply in the determination of the classes and grades of all groups of hay.

(a) *Basis of class and grade determinations.* (1) The determination of foreign material, injurious foreign material, temperature, odor, and general condition shall be on the basis of the hay as a whole.

(2) The determination of class shall be on the basis of the total forage plants comprising the mixture.

(3) The determination of leafiness of alfalfa, clover, lespedeza, soybean hay, cowpea hay, and peanut hay shall be on the basis of the total alfalfa, clover, lespedeza, soybean hay, cowpea hay, or peanut hay, as the case may be.

(4) The determination of alfalfa stalks bearing brown and/or black seed pods and upland prairie stalks having seed heads and/or jointed stems shall be on the basis of the total alfalfa or upland grasses.

(5) The determination of coarse and/or fine hay in alfalfa, Johnson, grain hay, and soybean hay shall be on the basis, respectively, of the alfalfa, Johnson grass, grain, and soybean stalks present in the hay. Measurements for texture shall be made two inches from the cut end of the stalk.

(6) The determination of color shall be upon the basis of the method pre-

scribed by the Federal Grain Inspection Service, United States Department of Agriculture.

(b) ***Methods of determining percentages.*** **(1) Percentages of mixture, leafiness, and foreign material shall be ascertained by weight.**

(2) Percentages of green color shall be ascertained from the color conversion tables prepared by the Federal Grain Inspection Service, United States Department of Agriculture, for alfalfa, timothy, clover, prairie, Johnson, soybean, and grass hay.

(3) Percentages of diameter sizes in alfalfa, Johnson, grain hay, and soybean hay shall be ascertained by count of the alfalfa, Johnson, grain, and soybean stalks in the hay.

(4) Percentages of moisture shall be ascertained by the air oven and the method of use thereof described in Instructions published by the Federal Grain Inspection Service, U.S. Department of Agriculture, or ascertained by any device and method which give equivalent results.

(Sec. 203 (c), (h), Pub. L. 79-733, 60 Stat. 1087 (c), (h), (7 U.S.C. 1622 (c), (h)))

[14 FR 3433, June 24, 1949; 19 FR 57, Jan. 6, 1954, as amended at 48 FR 17330, Apr. 22, 1983]

§ 57.3 Alfalfa and Alfalfa Mixed hay (Group I).

(a) *Classes and class requirements.*

Class	Mixture percentages
Alfalfa	Alfalfa with not over 5 percent of grasses.
Alfalfa Light Grass Mixed	A mixture of alfalfa and grasses with over 5 percent but not over 20 percent of grasses.
Alfalfa Heavy Grass Mixed.	A mixture of alfalfa and grasses with over 20 percent but not over 60 percent of grasses.
Alfalfa Light Timothy Mixed.	A mixture of alfalfa and timothy with over 5 percent but not over 30 percent of timothy.
Alfalfa Heavy Timothy Mixed.	A mixture of alfalfa and timothy with over 30 percent but less than 70 percent of timothy.
Alfalfa Clover Mixed	A mixture of alfalfa and clover with over 10 percent but not over 50 percent of clover and not over 10 percent of grasses.
Alfalfa Light Johnson Mixed.	A mixture of alfalfa and Johnson grass with over 5 percent but not over 30 percent of Johnson grass.
Alfalfa Heavy Johnson Mixed.	A mixture of alfalfa and Johnson grass with over 30 percent but less than 70 percent of Johnson grass.
Alfalfa Light Grain Mixed	A mixture of alfalfa and grain hay with over 5 percent but not over 20 percent of grain hay, and not over 10 percent of grasses.
Alfalfa Heavy Grain	A mixture of alfalfa and grain hay with over 20 percent but less than 60 percent of grain hay, and not over 10 percent of grasses.

(b) ***Numerical and Sample grades and grade requirements for all classes of Alfalfa and Alfalfa Mixed hay.***

U.S. grade	Leafiness of alfalfa (minimum percent of leaves)[1]	Color (minimum percent of green color)	Maximum percent of foreign material
No. 1[2]	[3]40	60	5
No. 2D25	35	10	
No. 3	10	[4]10	15
Sample grade	([5])	([5])	([5])

[1] Does not apply in the classes Alfalfa Heavy Grass Mixed hay, Alfalfa Heavy Timothy Mixed hay, Alfalfa Heavy Johnson Mixed hay, and Alfalfa Heavy Grain Mixed hay.

[2] Grade No. 1 shall not include hay in which a majority of the alfalfa stalks bear brown and/or black seed pods.

[3] Hay, to meet this leafiness requirement, must have at least one-fifth of the alfalfa leaves clinging to the stems.

[4] Grade No. 3 shall include heavily sweated hay (so-called tobacco brown) which has less than 10 percent color provided that the hay meets the other requirements for that grade.

[5] Hay which does not come within the requirements of any of the numerical grades; or which contains more than a trace of injurious foreign material; or which has any objectionable odor; or which is undercured, heating, hot, wet, musty, moldy, caked, badly broken, badly weathered, badly frosted, badly overripe, or very dusty; or which is otherwise of distinctly low quality.

(c) ***Special grades for Alfalfa and Alfalfa Mixed hay***—**(1)** ***Extra Leafy hay***—**(i)** ***Requirements.*** **Extra Leafy hay shall be hay of any of the grades of the classes Alfalfa, Alfalfa Light Grass Mixed, Alfalfa Light Timothy Mixed, Alfalfa Clover Mixed, Alfalfa Light Johnson Mixed, and Alfalfa Light Grain Mixed in group I in which the leafiness of the alfalfa is 50 percent or more with most of the leaves clinging to the stems, but shall not include hay in which a majority of the alfalfa stalks bear brown and/or black seed pods.**

(ii) ***Grade designation.*** **When the special grade Extra Leafy is applicable there shall be added to and made a**

part of the grade designation, preceding the name of the class, the words "Extra Leafy."

Example: U.S. No. 1 Extra Leafy Alfalfa hay.

(2) *Leafy hay*—(i) *Requirements.* Leafy hay shall be hay of any of the grades lower than grade No. 1 of the classes Alfalfa, Alfalfa Light Grass Mixed, Alfalfa Light Timothy Mixed, Alfalfa Clover Mixed, Alfalfa Light Johnson Mixed, and Alfalfa Light Grain Mixed in group I in which the leafiness of the alfalfa is 40 percent or more with at least one-fifth of the leaves clinging to the stems, but shall not include hay in which the leafiness of the alfalfa meets the requirements for extra leafy hay nor hay in which a majority of the alfalfa stalks bear brown and/or black seed pods.

(ii) *Grade designation.* When the special grade Leafy is applicable, there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Leafy."

Example: U.S. No. 2 Leafy Alfalfa hay.

(3) *Extra Green hay*—(i) *Requirements.* Extra Green hay shall be hay of any of the grades of any of the classes in group I which has 75 percent or more green color, but shall not include hay in which a majority of the alfalfa stalks bear brown and/or black seed pods.

(ii) *Grade designation.* When the special grade Extra Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Extra Green."

Example: U.S. No. 1 Extra Green Alfalfa Light Grass Mixed hay.

(4) *Green hay*—(i) *Requirements.* Green hay shall be hay of any of the grades lower than grade No. 1 of any of the classes in group I which has 60 percent or more but less than 75 percent green color, but shall not include hay in which a majority of the alfalfa stalks bear brown and/or black seed pods.

(ii) *Grade designation.* When the special grade Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Green."

Example: U.S. No. 3 Green Alfalfa Light Timothy Mixed hay.

(5) *Coarse hay*—(i) *Requirements.* Coarse hay shall be hay of any of the grades of any of the classes in group I in which the alfalfa stalks are hard and round and of which more than 30 percent of the stalks have diameters equal to or greater than the diameter of No. 11 steel wire (approximately twelve one-hundredths of an inch) by W & M Standard wire gage standards.

(ii) *Grade designation.* When the special grade Coarse is applicable, there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Coarse."

Example: U.S. No. 2 Coarse Alfalfa hay.

§ 57.4 Timothy and Clover hay (Group II).

(a) *Classes and class requirements.*

Class	Mixture percentages
Timothy	Timothy with not over 10 percent of legumes.
Timothy Light Clover Mixed.	A mixture of timothy and clover with over 10 percent but not over 30 percent of clover.
Timothy Heavy Clover Mixed.	A mixture of timothy and clover with over 30 percent but not over 50 percent of clover.
Timothy Light Grass Mixed.	A mixture of timothy and other grasses with over 10 percent but not over 30 percent of other grasses, and not over 10 percent of legumes.
Timothy Heavy Grass Mixed.	A mixture of timothy and other grasses with over 30 percent but not over 60 percent of other grasses, and not over 10 percent of legumes.
Timothy Light Alfalfa Mixed.	A mixture of timothy and alfalfa with over 10 percent but not over 30 percent of alfalfa.
Clover	Clover with not over 20 percent of timothy, other grasses and/or grain hay.
Clover Timothy Mixed	A mixture of clover and timothy with over 20 percent but less than 50 percent of timothy.

(b) *Numerical and Sample grades and grade requirements for all classes of Timothy and Clover hay.*

U.S. grade	Leafiness of clover (minimum percent of leaves, including blossoms) [1]	Color (minimum percent of green color)	Maximum percent of foreign material
No. 1 [2]	40	10	
No. 2 [2]	25	30D15	
No. 3	10	10	20
Sample grade	([3])	([3])	([3])

[1] Applies only in the classes Clover hay and Clover Timothy Mixed hay.

[2] Grades No. 1 and No. 2 shall not include hay that is stained.

[3] Hay which does not come within the requirements of any of the numerical grades; or which contains more than a trace of injurious foreign material; or which has any objectionable odor; or which is undercured, heating, hot; wet, musty, moldy, caked badly broken, badly stained badly weathered, badly overripe, or very dusty; or which is otherwise of distinctly low quality.

(c) *Special grades for Timothy and Clover hay*—(1) *Extra Leafy hay*—(i) *Requirements.* Extra Leafy hay shall be hay of any of the grades of the classes Clover and Clover Timothy Mixed in group II in which the leafiness of the clover is 50 percent or more with most of the leaves clinging to the stems.

(ii) *Grade designation.* When the special grade Extra Leafy is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Extra Leafy."

Example: U.S. No. 1 Extra Leafy Clover hay.

(2) *Leafy hay*—(i) *Requirements.* Leafy hay shall be hay of any of the grades lower than grade No. 1 of the classes Clover and Clover Timothy Mixed in group II in which the leafiness of the clover is 40 percent or more, but shall not include hay in which the leafiness of the clover meets the requirements for Extra Leafy hay.

(ii) *Grade designation.* When the special grade Leafy is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Leafy."

Example: U.S. No. 2 Leafy Clover Timothy Mixed hay.

(3) *Extra Green hay*—(i) *Requirements.* Extra Green hay shall be hay of any of the grades of any of the classes in group II which has 55 percent or more green color, but shall not include hay that is stained.

(ii) *Grade designation.* When the special grade Extra Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Extra Green."

Example: U.S. No. 1 Extra Green Timothy hay.

(4) *Green hay*—(i) *Requirements.* Green hay shall be hay of any of the grades lower than grade No. 1 of any of the classes in group II which has 40 percent or more but less than 55 percent green color, but shall not include hay that is stained.

(ii) *Grade designation.* When the special grade Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Green."

Example: U.S. No. 2 Green Timothy Light Grass Mixed hay.

§ 57.5 Prairie hay (Group III).

(a) *Classes and class requirements.*

Class	Mixture percentages
Upland Prairie	Upland grasses with not over 10 percent of legumes.
Midland Prairie	Midland grasses or a mixture of midland grasses, upland grasses, timothy and/or other grasses with over 40 percent of midland grasses and not over 10 percent of legumes.
Upland-Midland Prairie Mixed.	A mixture of upland and midland grasses with over 10 percent but not over 40 percent of midland grasses, and not over 10 percent of legumes.

(b) *Numerical and Sample grades and grade requirements for all classes of Prairie hay.*

U.S. grade	Color (minimum percent of green color)	Maximum percent of foreign material
No. 1 [1 2]	50	10
No. 2 [1 2]	35	15
No. 3 [2]	10	20
Sample grade	([3])	([3])

[1] Grades No. 1 and No. 2 shall not include hay that is stained.

[2] Hay of the class Upland Prairie in which one-third or more of the upland grass stalks bear seed heads and/or jointed stems to meet the requirements of grade No. 1 shall have 65 percent or more green color; grade No. 2 shall have

50 percent or more green color; and grade No. 3 shall have 35 percent or more green color.

[2] Hay which does not come within the requirements of any of the numerical grades; or which contains more than a trace of injurious foreign material; or which has any objectionable odor; or which is undercured, heating, hot, wet, musty, moldy, caked, badly broken, badly stained, badly weathered, badly overripe, or very dusty; or which is otherwise of distinctly low quality.

(c) *Special grades for Prairie hay*—(1) *Extra Green hay*—(i) *Requirements.* Extra Green hay shall be hay of any of the grades of any of the classes in group III which has 65 percent or more green color, but shall not include hay that is stained or hay of the class Upland Prairie in which one-third or more of the upland grass stalks bear seed heads or jointed stems.

(ii) *Grade designation.* When the special grade Extra Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Extra Green."

Example: U.S. No. 1 Extra Green Upland Prairie hay.

(2) *Green hay*—(i) *Requirements.* Green hay shall be hay of any of the grades lower than grade No. 1 of any of the classes in group III which has 50 percent or more but less than 65 percent green color, but shall not include hay that is stained or hay of the class Upland Prairie in which one-third or more of the upland grass stalks bear seed heads or jointed stems.

(ii) *Grade designation.* When the special grade Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Green."

Example: U.S. No. 2 Green Upland-Midland Prairie Mixed hay.

§ 57.6 Johnson and Johnson Mixed hay (Group IV).

(a) *Classes and class requirements.*

Class	Mixture percentages
Johnson	Johnson grass with not over 10 percent of legumes.
Johnson Light Grass Mixed.	A mixture of Johnson grass and other grasses with over 10 percent but not over 30 percent of other grasses and not over 10 percent of legumes.
Johnson Heavy Grass Mixed.	A mixture of Johnson grass and other grasses with over 30 percent but not over 60 percent of other grasses and not over 10 percent of legumes.
Johnson Light Alfalfa Mixed.	A mixture of Johnson grass and alfalfa with over 10 percent but not over 30 percent of alfalfa.
Johnson Light Lespedeza Mixed.	A mixture of Johnson grass and lespedeza with over 10 percent but not over 30 percent of lespedeza.

(b) *Numerical and Sample grades and grade requirements for all classes of Johnson and Johnson Mixed hay.*

U.S. grade	Color (minimum percent of green color)	Maximum percent of foreign
No. 1	40	10
No. 2	25	15
No. 3	10	20
Sample grade	(1)	(1)

[1] Hay which does not come within the requirements of any of the numerical grades; or which contains more than a trace of injurious foreign material; or which has any objectionable odor; or which is undercured, heating, hot, wet, musty, moldy, caked, badly broken, badly stained, badly weathered, badly overripe, or very dusty; or which is otherwise of distinctly low quality.

(c) *Special grades for Johnson and Johnson Mixed hay*—(1) *Extra Green hay*—(i) *Requirements.* Extra Green hay shall be hay of any of the grades of any of the classes in group IV which has 55 percent or more green color.

(ii) *Grade designation.* When the special grade Extra Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Extra Green."

Example: U.S. No. 1 Extra Green Johnson hay.

(2) *Green hay*—(i) *Requirements.* Green hay shall be hay of any of the grades lower than grade No. 1 of any of the classes in group IV which has 40 percent or more but less than 55 percent green color.

(ii) *Grade designation.* When the special grade Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Green."

Example: U.S. No. 3 Green Johnson Light Grass Mixed hay.

(3) *Fine hay*—(i) *Requirements.* Fine hay shall be hay of any of the grades of the class Johnson in group IV in which 70 percent or more of the Johnson grass stalks have diameters equal to or smaller than the diameter of No. 13 steel wire (approximately nine one-hundredths of an inch), and no stalks have diameters equal to or greater than the diameter of No. 10 steel wire (approximately thirteen one-hundredths of an inch), by W & M standards wire gage standards.

(ii) *Grade designation.* When the special grade Fine is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Fine."

Example: U.S. No. 1 Fine Johnson hay.

(4) *Coarse hay*—(i) *Requirements.* Coarse hay shall be hay of any of the grades of any of the classes in group IV in which more than 30 percent of the Johnson grass stalks have diameters equal to or greater than the diameter of No. 9 steel wire (approximately fifteen one-hundredths of an inch), by W & M standard wire gauge standards.

(ii) *Grade designation.* When the special grade Coarse is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Coarse."

Example: U.S. No. 1 Coarse Johnson hay.

§ 57.7 Grain, Wild Oat, Vetch, and Grain Mixed hay (Group V).

(a) *Classes and class requirements.*

Class	Mixture percentages
Oat	Oat hay with not over 10 percent of legumes.
Red Oat	Red oat hay with not over 10 percent of legumes.
Wheat	Wheat hay with not over 10 percent of legumes.
Barley	Barley hay with not over 10 percent of legumes.
Wild Oat	Wild oat hay or a mixture of wild oat hay and other grain hay with not over 30 percent of other grain hay and not over 10 percent of legumes.
Red Oat and Wild Oat Mixed, Wheat and Wild Oat Mixed.	A mixture of red oat hay and wild oat hay or wheat hay and wild oat hay with over 10 percent but not over 40 percent of wild oat hay and not over 10 percent of legumes in each case.
Wild Oat and Grain Mixed	A mixture of wild oat hay and other grain hay with over 30 percent but less than 60 percent of other grain hay and not over 10 percent of legumes.
Oat Light Alfalfa Mixed, Wheat Light Alfalfa Mixed, Barley Light Alfalfa Mixed.	A mixture of oat hay (including red oat hay) and alfalfa, wheat hay and alfalfa, or barley hay and alfalfa with over 10 percent but not over 40 percent of alfalfa and not over 10 percent of grasses including the 5 percent allowance in § 57.1(m), (n), and (q) for oat hay, wheat hay, and barley hay, respectively.
Oat and vetch mixed, Wheat and Vetch Mixed.	A mixture of oat hay (including red oat hay) and vetch hay or wheat hay and vetch hay with over 10 percent but not over 50 percent of vetch hay and not over 10 percent of grasses including the 5 percent allowance in § 57.1(m) and (n) for oat hay and wheat hay, respectively.
Vetch and Oat Mixed, Vetch and Wheat Mixed.	A mixture of vetch hay and oat hay (including red oat hay) or vetch hay and wheat hay with over 20 percent but less than 50 percent of oat hay, or wheat hay, as the case may be, and not over 10 percent of grasses including the 5 percent allowance in § 57.1(m) and (n) for oat hay and wheat hay, respectively.
Vetch	Vetch hay or a mixture of vetch hay and grain hay with not over 20 percent of grain hay.

(b) *Numerical and Sample grades and grade requirements for the classes of Oat hay, Red Oat hay, Barley hay, Red Oat and Wild Oat Mixed hay, Oat Light Alfalfa Mixed hay, and Barley Light Alfalfa Mixed hay.*

U.S. grade	Maturity	Color	Maximum percent of foreign material
No. 1 [1]	The grain shall have been cut in the dough stage and shall contain half-formed kernels and "filled" grain, with little or no shattering of kernels.	Shall be bright, natural green to yellowish green or bright, reddish purple..	
No. 2	The grain shall have been cut in the dough stage or before and may contain half-formed kernels and "filled" grain, with little or no shattering of kernels.	May be yellowish green or reddish purple to yellow with traces of green or reddish yellow, slightly discolored, or slightly weathered.	10
No. 3	May be fully matured	May be yellow, discolored, weathered, or stained.	15
Sample grade	(2)	(2)	(2)

[1] To meet the requirements of grade No. 1, Barley hay and Barley Light Alfalfa Mixed hay shall have been cut in the early dough stage or before, and may contain half-formed kernels and a little "filled" grain.

[2] Hay of the above classes which does not come within the requirements of any of the numerical grades; or which contains more than a trace of injurious foreign material; or which has any objectionable odor; or which is undercured, heating, hot, wet, musty, moldy, sour, caked, badly broken, badly stained, badly weathered, badly overripe, or very dusty; or otherwise of distinctly low quality.

(c) *Numerical and Sample grades and grade requirements for the classes Wheat hay, Wild Oat hay, Wheat and Wild Oat Mixed hay and Grain Mixed hay, and Wheat Light Alfalfa Mixed hay.*

U.S. grade	Maturity	Color	Maximum percent of foreign material
No. 1	The grain shall have been cut in the milk stage or before and may contain small, shriveled kernels and a little "filled" grain.	Shall be bright, natural green to yellowish green.	5
No. 2	The grain shall have been cut in the early dough stage or before and may contain half-formed kernels and some "filled" grain, although such "filled" grain shall not predominate.	May be yellowish green to yellow with traces of green, slightly discolored, or slightly weathered.	10
No. 3	May be fully matured	May be yellow or greenish yellow with many brown leaves, stained, or weathered.	15
Sample grade	(1)	(1)	(1)

[1] Hay of the above classes which does not come within the requirements of any off the numerical grades; or which contains more than a trace of injurious foreign material; or which has any objectionable odor; or which is undercured, heating, hot, wet, musty, moldy, sour, caked, badly broken, badly stained, badly weathered, badly overripe, or very pusty, or otherwise of distinctly low quality.

(d) *Numerical and Sample grades and grade requirements for the classes Oat and Vetch Mixed hay, Wheat and Vetch Mixed hay, Vetch and Oat Mixed hay, Vetch and Wheat Mixed hay and Vetch hay.*

U.S. grade	Maturity	Color	Maximum percent of foreign material
No. 1	The vetch shall have been cut when the pods on the lower ⅓ of the plant are one-half filled or before. The grain shall have been cut in the early dough stage or before and may contain half-formed kernels and a little "filled" grain.	Shall be bright, natural green to greenish yellow.	5
No. 2	The vetch shall have been cut when the pods on the lower ⅔ of the plant are one-half filled or before. The grain shall have been cut in the dough stage or before and may contain some "filled" grain although such "filled" grain shall not predominate.	May be greenish yellow to brownish yellow, slightly discolored, or slightly weathered.	10
No. 3	May be fully matured	May be yellowish brown, brown, stained, or weathered.	15
Sample grade	(1)	(1)	(1)

[1] Hay of the above classes which does not come within the requirements of any of the numerical grades; or which contains more than a trace of injurious foreign material; or which has any objectionable odor; or which is undercured, heating, hot, wet, musty, moldy, sour, caked, badly broken, badly stained, badly weathered, badly overripe, or very dusty; or otherwise of distinctly low quality.

(e) *Special grades for Grain, Wild Oat, Vetch, and Grain Mixed hay*—(1) *Coarse hay*—(i) *Requirements.* Coarse hay shall be hay of any of the grades of the classes Oat, Red Oat, and Red Oat and Wild Oat Mixed in group V in which more than 30 percent of the oat stalks have diameters equal to or greater than the diameter of No. 6 steel wire (approximately nineteen one-hundredths of an inch), by W & M standard wire gage standards.

(ii) *Grade designation.* When the special grade Coarse is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Coarse."

Example: U.S. No. 2 Coarse Oat hay.

§ 57.8 Lespedeza and Lespedeza Mixed hay (Group VI).

(a) *Classes and class requirements.*

Class	Mixture percentages
Lespedeza	Lespedeza with not over 10 percent of grasses.
Lespedeza Light Grass Mixed.	A mixture of lespedeza and grasses with over 10 percent but not over 30 percent of grasses.
Lespedeza Heavy Grass Mixed.	A mixture of lespedeza and grasses with over 30 percent but not over 60 percent of grasses.
Lespedeza Light Johnson Mixed.	A mixture of lespedeza and Johnson grass with over 10 percent but not over 30 percent of Johnson grass.
Lespedeza Heavy Johnson Mixed.	A mixture of lespedeza and Johnson grass with over 30 percent but less than 70 percent of Johnson grass.

(b) *Numerical and Sample grades and grade requirements for all classes of Lespedeza and Lespedeza Mixed hay.*

U.S. grade	Leafiness of lespedeza (minimum percent of leaves)[1]	Color	Maximum percent of foreign material
No. 1	45	Shall be green to greenish brown..	10
No. 2	30	May be greenish brown to brown..	15
No. 3	10	May be brown	20
Sample grade	(2)	(2)	(2)

[1] Does not apply in the classes Lespedeza Heavy Grass Mixed hay and Lespedeza Heavy Johnson Mixed hay.

[2] Hay which does not come within the requirements of any of the numerical grades; or which contains more than a trace of injurious foreign material; or which has any objectionable odor; or which is undercured, heating, hot, wet, musty, moldy, caked, badly broken, badly weathered, badly overripe, or very dusty; or which is otherwise of distinctly low quality.

(c) *Special grades for Lespedeza and Lespedeza Mixed hay*—(1) *Extra Leafy hay*—(i) *Requirements.* Extra Leafy hay shall be hay of any of the grades of the classes Lespedeza, Lespedeza Light Grass Mixed, and Lespedeza Light Johnson Mixed in group VI in which the leafiness of the lespedeza is 55 percent or more, with most of the leaves clinging to the stems.

(ii) *Grade designation.* When the special grade Extra Leafy is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Extra Leafy."

Example: U.S. No. 1 Extra Leafy Lespedeza hay.

(2) *Leafy hay*—(i) *Requirements.* Leafy hay shall be hay of any of the grades lower than grade No. 1 of the classes Lespedeza, Lespedeza Light Grass Mixed, and Lespedeza Light Johnson Mixed in group VI in which the leafiness of the lespedeza is 45 percent or more, but shall not include hay in which the leafiness of the lespedeza meets the requirements for extra leafy hay.

(ii) *Grade designation.* When the special grade Leafy is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Leafy."

Example: U.S. No. 2 Leafy Lespedeza Light Grass Mixed hay.

(3) *Extra Green hay*—(i) *Requirements.* Extra Green hay shall be hay of any of the grades of any of the classes in group VI which has a natural green color.

(ii) *Grade designation.* When the special grade Extra Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Extra Green."

Example: U.S. No. 1 Extra Green Lespedeza hay.

(4) *Green hay*—(i) *Requirements.* Green hay shall be hay of any of the grades lower than grade No. 1 of any of the classes in group VI which has a green to greenish brown color.

(ii) *Grade designation.* When the special grade Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Green."

Example: U.S. No. 8 Green Lespedeza Heavy Grass Mixed hay.

§ 57.9 Soybean and Soybean Mixed hay (Group VII).

(a) *Classes and class requirements.*

Class	Mixture percentages
Soybean	Soybean hay with not over 15 percent of grasses.
Soybean Light Grass Mixed.	A mixture of soybean hay and grasses with over 15 percent but not over 30 percent of grasses.
Soybean Heavy Grass Mixed.	A mixture of soybean hay and grasses with over 30 percent but not over 60 percent of grasses.
Soybean Light Johnson Mixed.	A mixture of soybean hay and Johnson grass with over 10 percent but not over 30 percent of Johnson grass.
Soybean Heavy Johnson Mixed.	A mixture of soybean hay and Johnson grass with over 30 percent but not over 70 percent of Johnson grass.

(b) *Numerical and Sample grades and grade requirements for all classes of Soybean and Soybean Mixed hay.*

U.S. grade	Leafiness of soybean hay (minimum percent of leaves including seed pods not badly shattered or in condition to shatter)[1]	Color (minimum percent of green color)	Maximum percent of foreign material
No. 1	40	40	10
No. 2	25	25	15
No. 3	10	10	20
Sample grade	([2])	([2])	([2])

[1] Does not apply in the classes Soybean Heavy Grass Mixed hay and Soybean Heavy Johnson Mixed hay.

[2] Hay which does not come within the requirements of any of the numerical grades; or which contains more than a trace of injurious foreign material; or which has any objectionable odor; or which is undercured, heating, hot, wet, musty, moldy, caked, badly broken, badly weathered, badly overripe, or very dusty; or which is otherwise of distinctly low quality.

(c) *Special grades for Soybean and Soybean Mixed hay*—(1) *Extra Leafy hay*—(i) *Requirements.* Extra Leafy hay shall be hay of any of the grades of the classes Soybean, Soybean Light Grass Mixed, and Soybean Light Johnson Mixed in group VII in which the leafiness of the soybean hay is 50 percent or more, with most of the leaves clinging to the stems.

(ii) *Grade designation.* When the special grade Extra Leafy is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Extra Leafy."

Example: U.S. No. 1 Extra Leafy Soybean hay.

(2) *Leafy hay*—(i) *Requirements.* Leafy hay shall be hay of any of the grades lower than grade No. 1 of the classes Soybean, Soybean Light Grass Mixed, and Soybean Light Johnson Mixed in group VII in which the leafiness of the soybean hay is 40 percent or more, but shall not include hay in which the leafiness of the soybean hay meets the requirements for extra leafy hay.

(ii) *Grade designation.* When the special grade Leafy is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Leafy."

Example: U.S. No. 2 Leafy Soybean Light Grass Mixed hay.

(3) *Extra Green hay*—(i) *Requirements.* Extra Green hay shall be hay of any of the grades of any of the classes in group VII which has 55 percent or more green color.

(ii) *Grade designation.* When the special grade Extra Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Extra Green."

Example: U.S. No. 1 Extra Green Soybean hay.

(4) *Green hay*—(i) *Requirements.* Green hay shall be hay of any of the grades lower than grade No. 1 of any of the classes in group VII which has 40 percent or more but less than 55 percent green color.

(ii) *Grade designation.* When the special grade Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Green."

Example: U.S. No. 2 Green Soybean Light Johnson Mixed hay.

(5) *Coarse hay*—(i) *Requirements.* Coarse hay shall be hay of any of the grades of any of the classes in group VII in which more than 30 percent of the soybean stalks have diameters equal to or greater than the diameter of No. 4 steel wire (approximately twenty-three one-hundredths of an inch), by W & M standard wire gage standards.

(ii) *Grade designation.* When the special grade Coarse is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Coarse."

Example: U.S. No. 2 Coarse Soybean hay.

§ 57.10 Cowpea and Cowpea Mixed hay (Group VIII).

(a) *Classes and class requirements.*

Class	Mixture percentages
Cowpea	Cowpea hay with not over 15 percent of grasses.
Cowpea Light Grass Mixed.	A mixture of cowpea hay and grasses with over 15 percent but not over 30 percent of grasses.
Cowpea Heavy Grass Mixed.	A mixture of cowpea hay and grasses with over 30 percent but not over 60 percent of grasses.
Cowpea Light Johnson Mixed.	A mixture of cowpea hay and Johnson grass with over 10 percent but not over 30 percent of Johnson grass.
Cowpea Heavy Johnson Mixed.	A mixture of cowpea hay and Johnson grass with over 30 percent but not over 70 percent of Johnson grass.

(b) *Numerical and Sample grades and grade requirements for all classes of Cowpea and Cowpea Mixed hay.*

U.S. grade	Leafiness of cowpea hay (minimum percent of leaves including seed pods in which the seeds are not more than one-half developed)[1]	Color	Maximum percent of foreign material
No. 1	40	Shall be green to greenish yellow or greenish brown.	10

U.S. grade	Leafiness of cowpea hay (minimum percent of leaves including seed pods in which the seeds are not more than one-half developed)[1]	Color	Maximum percent of foreign material
No. 2	25	May be greenish yellow or greenish brown to brown.	15
No. 3	10	May be brown or weathered.	20
Sample grade	(²)	(²)	(²)

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[1] Does not apply in the classes Cowpea Heavy Grass, Mixed hay, and Cowpea Heavy Johnson Mixed hay.

[2] Hay which does not come within the requirements of any of the numerical grades; or which contains more than a trace of injurious foreign material; or which has any objectionable odor; or which is undercured, heating, hot, wet, musty, moldy, caked, badly broken, badly weathered, badly overripe, or very dusty; or which is otherwise of distinctly low quality.

(c) *Special grades for Cowpea and Cowpea Mixed hay*—(1) *Extra Leafy hay*—(i) *Requirements.* Extra Leafy hay shall be hay of any of the grades of the classes Cowpea, Cowpea Light Grass Mixed, and Cowpea Light Johnson Mixed in group VIII in which the leafiness of the cowpea hay is 50 percent or more, with most of the leaves clinging to the stems.

(ii) *Grade designation.* When the special grade Extra Leafy is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Extra Leafy."

Example: U.S. No. 1 Extra Leafy Cowpea hay.

(2) *Leafy hay*—(i) *Requirements.* Leafy hay shall be hay of any of the grades lower than grade No. 1 of the classes Cowpea, Cowpea Light Grass Mixed, and Cowpea Light Johnson Mixed in group VIII in which the leafiness of the cowpea hay is 40 percent or more, but shall not include hay in which the leafiness of the cowpea hay meets the requirements for extra leafy hay.

(ii) *Grade designation.* When the special grade Leafy is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Leafy."

Example: U.S. No. 2 Leafy Cowpea hay.

(3) *Extra Green hay*—(i) *Requirements.* Extra Green hay shall be hay of any of the grades of any of the classes in group VIII which has a natural green color.

(ii) *Grade designation.* When the special grade Extra Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Extra Green."

Example: U.S. No. 1 Extra Green Cowpea hay.

(4) *Green hay*—(i) *Requirements.* Green hay shall be hay of any of the grades lower than grade No. 1 of any of the classes in group VIII which has a green to greenish yellow or greenish brown color.

(ii) *Grade designation.* When the special grade Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Green."

Example: U.S. No. 3 Green Cowpea Light, Grass Mixed hay.

§ 57.11 Peanut and Peanut Mixed hay (Group IX).

(a) *Classes and class requirements.*

Class	Mixture percentages
Peanut	Peanut hay with not over 10 percent of grasses.
Peanut Light Grass Mixed	A mixture of peanut hay and grasses with over 10 percent but not over 30 percent of grasses.
Peanut Heavy Grass Mixed.	A mixture of peanut hay and grasses with over 30 percent but not over 60 percent of grasses.

(b) *Numerical and Sample grades and grade requirements for all classes of Peanut and Peanut Mixed hay.*

U.S. grade	Leafiness of peanut hay	Color	Maximum percent of foreign material
No. 1[1]	25	Shall be green to greenish brown.	10
No. 2[1]	15	May be greenish brown to brown.	15
No. 3	5	May be brown or weathered.	20

U.S. grade	Leafiness of peanut hay	Color	Maximum percent of foreign material
Sample grade.	(3)	(3)	(3)

[1] Minimum percent of leaves, including whole peanut pods.

[2] Grades No. 1 and No. 2 may be dusty but shall not contain any appreciable quantity of soil or dirt.

[3] Hay which does not come within the requirements of any of the numerical grades; or which contains more than a trace of injurious foreign material; or which has any objectionable odor; or which is undercured, heating, hot, wet, musty, moldy, caked, badly weathered, badly overripe, or very dirty; or which is otherwise of distinctly low quality.

(c) *Special grades for Peanut and Peanut Mixed hay*—(1) *Extra Leafy hay*—(i) *Requirements.* Extra Leafy hay shall be hay of any of the grades of the classes Peanut and Peanut Light Grass Mixed in Group IX in which the leafiness of the peanut hay is 35 percent or more.

(ii) *Grade designation.* When the special grade Extra Leafy is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Extra Leafy."

Example: U.S. No. 1 Extra Leafy Peanut hay.

(2) *Leafy hay*—(i) *Requirements.* Leafy hay shall be hay of any of the grades lower than grade No. 1 of the classes Peanut and Peanut Light Grass Mixed in group IX in which the leafiness of the peanut hay is 25 percent or more, but shall not include hay in which the leafiness of the peanut hay meets the requirements for extra leafy hay.

(ii) *Grade designation.* When the special grade Leafy is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Leafy."

Example: U.S. No. 2 Leafy Peanut Light Grass Mixed hay.

(3) *Extra Green hay*—(i) *Requirements.* Extra Green hay shall be hay of any of the grades of any of the classes in group IX which has a natural green color.

(ii) *Grade designation.* When the special grade Extra Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Extra Green."

Example: U.S. No. 1 Extra Green Peanut hay.

(4) *Green hay*—(i) *Requirements.* Green hay shall be hay of any of the grades lower than grade No. 1 of any of the classes in group IX which has a green to greenish brown color.

(ii) *Grade designation.* When the special grade Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Green."

Example: U.S. No. 2 Green Peanut Heavy Grass Mixed hay.

§ 57.12 Grass hay (Group X).

(a) *Class and class requirements.* The group Grass hay shall have one class namely, Grass hay, which shall be (1) hay containing more than 60 percent of grasses, sedges, and/or rushes other than timothy, Johnson grass, upland grasses, midland grasses, grain cut for hay, millet, and/or Sudan grass; or (2) hay consisting of mixtures of upland grasses, midland grasses, timothy, and/or other grasses, and containing not more than 10 percent of legumes, which does not meet the class requirements of any of the classes in Prairie hay, group III.

NOTE: Questions relating to, or samples of, the kinds of grasses, sedges, and/or rushes that may be included in the class Grass hay should be submitted to the Federal Grain Inspection Service, United States Department of Agriculture, for determination or interpretation.

(b) *Numerical and Sample grades and grade requirements for Grass hay.*

(c) *Grade designations for Grass hay.* Grade designations for Grass hay shall include after the words "Grass hay" either (1) such local trade names as will identify the kind of grasses, sedges, and/or rushes; or (2) the common name of the various kinds of grasses, sedges, rushes, and legumes which constitute more than 10 percent of the mixture, written in the order of importance. Grasses which cannot be identified can be described by the term "miscellaneous grasses."

U.S. grade	Color (minimum percent of green color)	Maximum percent of foreign material
No. 1[1]	50	10
No. 2[1]	35	15
No. 3	10	20
Sample grade	(2)	(2)

[1] Grades No. 1 and No. 2 shall not include hay that stained.

[2] Hay which does not come within the requirements of any of the numerical grades, or which contains more than a trace of injurious foreign material; or which has any objectionable odor; or which is undercured, heating, hot, wet, musty, moldy, caked, badly broken, badly stained, badly weathered, badly overripe, or very dusty; or which is otherwise of distinctly low quality.

(d) *Special grades for Grass hay*—(1) *Extra Green hay*—(i) *Requirements.* Extra Green hay shall be hay of any of the grades of the class Grass hay in group X which has 65 percent or more green color, but shall not include hay that is stained.

(ii) *Grade designation.* When the special grade Extra Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Extra Green."

Example: U.S. No. 1 Extra Green Grass hay, Redtop and Bluegrass.

(2) *Green hay*—(i) *Requirements.* Green hay shall be hay of any of the grades lower than grade No. 1 of the class Grass hay in group X which has 50 percent or more but less than 65 percent green color, but shall not include hay that is stained.

(ii) *Grade designation.* When the special grade Green is applicable there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Green."

Example: U.S. No. 2 Green Grass hay, Redtop.

(Sec. 203 (c), (h), Pub. L. 79-733, 60 Stat. 1087 (c), (h), (7 U.S.C. 1622 (c), (h)))

[14 FR 3433, June 24, 1949; 19 FR 57, Jan. 6, 1954, as amended at 48 FR 17330, Apr. 22, 1983]

§ 57.13 Mixed hay (Group XI).

(a) *Class and class requirements.* The group Mixed hay has one class, namely, Mixed hay, which shall be any mixture of hay not classified in the groups I to X, inclusive, but which contains 50 percent or more singly or in combination of alfalfa, timothy, clover, upland grasses, midland grasses, grasses (as defined in § 57.1(k)), Johnson grass, grain hay, vetch hay, lespedeza, soybean hay, cowpea hay, and peanut hay.

(b) *Grades for Mixed hay*—(1) *Grade requirements.* Mixed hay shall be graded according to the grade requirements and the specifications in §§ 57.1 through 57.12 for the kind of hay which predominates in the mixture, except that all numerical and special grade specifications pertaining to leafiness, stemminess, coarseness, and fineness shall be disregarded.

(2) *Grade designation.* The grade designation for Mixed hay shall include successively, in the order named, (i) the letters "U.S."; (ii) the number of the grade or the words "Sample grade", as the case may be, and any special grade that may apply; (iii) the words "Mixed hay"; and (iv) the name and approximate percentage of each kind of hay which constitutes more than 10 percent of the mixture listed in the order of decreasing percentages.

Subpart B—United States Standards for Straw

§ 57.50 Terms identified.

For the purposes of the United States standards for straw:

(a) *Straw.* Straw shall be the stems, leaves, and chaff of the grain plants, wheat, oat, barley, rye, and rice, which remain after threshing, and may include not more than 10 percent (of the total straw) of timothy and other grasses that are not coarse and woody.

(b) *Chaff.* Chaff shall be shattered glumes, and pieces of straw not over 4 inches in length.

(c) *Foreign material.* Foreign material shall be matter other than straw, except grasses that are not coarse and woody.

§ 57.51 Principles governing application of standards.

The following principles shall apply in the determination of the grades of straw:

(a) *Basis of grade determinations.* (1) The determination of chaff, foreign material, temperature, odor, and general condition shall be on the basis of the straw as a whole.

(2) The determination of color shall be on the basis of the method prescribed by the Federal Grain Inspection Service, United States Department of Agriculture.

(b) *Methods of determining percentages.* Percentages of chaff and foreign material shall be ascertained by weight.

(Sec. 203 (c), (h), Pub. L. 79-733, 60 Stat. 1087 (c), (h), (7 U.S.C. 1622 (c), (h)))

[14 FR 3433, June 24, 1949; 19 FR 57, Jan. 6, 1954, as amended at 48 FR 17330, Apr. 22, 1983]

§ 57.52 Grades for straw.

(a) *Numerical and sample grades and grade requirements for straw.*

U.S. grade	Color	Maximum percent of chaff
No. 1	Bright	35
No. 2	Weathered or stained	35
Sample grade	(1)	(1)

[1] Straw which does not come within the requirements of any of the numerical grades or which contains more than 75 percent of chaff or more than 10 percent of foreign material; or which is heating, hot, wet, musty, moldy, caked, badly stained, badly weathered, or very dusty; or which is otherwise of distinctly low quality.

(b) *Grade designation.* Grade designations for straw shall include successively in the order named: (1) The letters "U.S."; (2) the number of the grade or the words "Sample grade," as the case may be, and any special grade that may apply; (3) the words "Wheat straw," "Oat straw," "Barley straw," "Rye straw," or "Rice straw," as the case may be. In the case of mixed straw the names of the different kinds of straw shall be given in the grade designation.

(c) *Special grades for straw*—(1) *Straight Rye straw*—(i) *Requirements.* Straight Rye straw shall be rye straw of any grade which has been threshed without opening the sheaves or permitting the straw to pass through the threshing machine and which has been pressed into large box-pressed bales.

(ii) *Grade designation.* When the special grade Straight is applicable there shall be added to and made a part of the grade designation, preceding the name of the kind of straw, the word "Straight."

Example: U.S. No. 1 Straight Rye straw.

(2) *Long Rye straw*—(i) *Requirements.* Long Rye straw shall be rye straw of any grade which has been threshed without opening the sheaves or permitting the straw to pass through the threshing machine and which has been pressed into perpetual-pressed bales.

(ii) *Grade designation.* When the special grade Long is applicable there shall be added to and made a part of the grade designation, preceding the name of the kind of straw, the word "Long."

Example: U.S. No. 2 Long Rye straw.

(3) *Chaffy straw*—(i) *Requirements.* Chaffy straw shall be Wheat straw, Oat straw, Barley straw, Rye straw, or Rice straw, as the case may be, of any grade which contains more than 35 percent of chaff.

(ii) *Grade designation.* When the special grade of Chaffy is applicable, there shall be added to and made a part of the grade designation, preceding the name of the kind of straw, the word "Chaffy."

Example: U.S. No. 2 Chaffy Wheat straw.

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS[1]

Subpart A—Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products

DEFINITIONS

Sec.
58.1 Meaning of words.
58.2 Designation of official certificates, memoranda, marks, identifications, and devices for purpose of the Agricultural Marketing Act.

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[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act.

Sec.

ADMINISTRATION

58.3 Authority.

INSPECTION OR GRADING SERVICE

58.4 Basis of service.
58.5 Where service is offered.
58.6 Supervision of service.
58.7 Who may obtain service.
58.8 How to make application.
58.9 Form of application.
58.10 Filing of application.
58.11 Approval of application.
58.12 When application may be rejected.
58.13 When application may be withdrawn.
58.14 Authority of applicant.
58.15 Accessibility and condition of product.
58.16 Disposition of samples.
58.17 Order of service.
58.18 Inspection or grading certificates, memoranda, or reports.
58.19 Issuance of inspection or grading certificates.
58.20 Disposition of inspection or grading certificates or reports.
58.21 Advance information.

APPEAL INSPECTION OR GRADING AND REINSPECTION OR REGRADING

58.22 When appeal inspection or grading may be requested.
58.23 How to obtain appeal inspection or grading.
58.24 Record of filing time.
58.25 When an application for an appeal inspection or grading may be refused.
58.26 When an application for an appeal inspection or grading may be withdrawn.
58.27 Order in which appeal inspections or gradings are performed.
58.28 Who shall make appeal inspections or gradings.
58.29 Appeal inspection or grading certificate or report.
58.30 Application for reinspection or regrading.
58.31 Reinspection or regrading certificate or report.
58.32 Superseded certificates or reports.

LICENSING OF INSPECTORS OR GRADERS

58.33 Who may be licensed.
58.34 Suspension or revocation of license.
58.35 Surrender of license.
58.36 Identification.
58.37 Financial interest of licensees.

FEES AND CHARGES

58.38 Payment of fees and charges.
58.39 Fees for holiday or other nonwork-time.
58.40 Fees for appeal inspection or grading.

Sec.
58.41 Fees for additional copies of certificates.
58.42 Travel expenses and other charges.
58.43 Fees for inspection, grading and sampling.
58.44 Fees for laboratory analysis.
58.45 Fees for continuous resident service.
58.46 Fees for service performed under cooperative agreement.
58.47 Fees for continuous nonresident service.

MARKING, BRANDING, AND IDENTIFYING PRODUCT

58.49 Authority to use official identification.
58.50 Approval and form of official identification.
58.51 Information required on official identification.
58.52 Time limit for packaging inspected or graded products with official identification.

PREREQUISITES TO PACKAGING PRODUCTS WITH OFFICIAL IDENTIFICATION

58.53 Supervisor of packaging required.
58.54 Packing and packaging room and equipment.
58.55 Facilities for keeping quality samples.
58.56 Incubation of product samples.
58.57 Product not eligible for packaging with official identification.

VIOLATIONS

58.58 Debarment of service.

MISCELLANEOUS

58.61 Political activity.
58.62 Report of violations.
58.63 Other applicable regulations.
58.64 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

Subpart B—General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service[1]

DEFINITIONS

58.100 OMB control numbers assigned pursuant to the Paperwork Reduction Act.
58.101 Meaning of words.

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[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, Environmental Protection Act, or applicable laws and regulations of any State or Municipality.

PURPOSE

58.122 Approved plants under USDA inspection and grading service.

APPROVED PLANTS

58.123 Survey and approval.
58.124 Denial or suspension of plant approval.

PREMISES, BUILDINGS, FACILITIES, EQUIPMENT AND UTENSILS

58.125 Premises.
58.126 Buildings.
58.127 Facilities.
58.128 Equipment and utensils.

PERSONNEL, CLEANLINESS AND HEALTH

58.129 Cleanliness.
58.130 Health.

PROTECTION AND TRANSPORT OF RAW MILK AND CREAM

58.131 Equipment and facilities.

QUALITY SPECIFICATIONS FOR RAW MILK

58.132 Basis for classification.
58.133 Methods for quality and wholesomeness determination.
58.134 Sediment content.
58.135 Bacterial estimate.
58.136 Rejected milk.
58.137 Excluded milk.[1]
58.138 Quality testing of milk from new producers.
58.139 Record of tests.
58.140 Field service.
58.141 Alternate quality control program.

OPERATIONS AND OPERATING PROCEDURES

58.142 Product quality and stability.
58.143 Raw product storage.
58.144 Pasteurization or ultra-pasteurization.
58.145 Composition and wholesomeness.
58.146 Cleaning and sanitizing treatment.
58.147 Insect and rodent control program.
58.148 Plant records.
58.149 Alternate quality control programs for dairy products.

PACKAGING AND GENERAL IDENTIFICATION

58.150 Containers.
58.151 Packaging and repackaging.
58.152 General identification.

STORAGE OF FINISHED PRODUCT

58.153 Dry storage.
58.154 Refrigerated storage.

INSPECTION, GRADING AND OFFICIAL IDENTIFICATION

58.155 Grading.
58.156 Inspection.
58.157 Inspection or grading certificates.
58.158 Official identification.

EXPLANATION OF TERMS

58.159 Terms.

SUPPLEMENTAL SPECIFICATIONS FOR PLANTS MANUFACTURING, PROCESSING AND PACKAGING NONFAT DRY MILK, INSTANT NONFAT DRY MILK, DRY WHOLE MILK, AND DRY BUTTERMILK

DEFINITIONS

58.205 Meaning of words.

ROOMS AND COMPARTMENTS

58.210 Dry storage of product.
58.211 Packaging room for bulk products.
58.212 Hopper or dump room.
58.213 Repackaging room.

EQUIPMENT AND UTENSILS

58.214 General construction, repair and installation.
58.215 Pre-heaters.
58.216 Hotwells.
58.217 Evaporators and/or vacuum pans.
58.218 Surge tanks.
58.219 High pressure pumps and lines.
58.220 Drying systems.
58.221 Collectors and conveyors.
58.222 Dry dairy product cooling equipment.
58.223 Special treatment equipment.
58.224 Sifters.
58.225 Clothing and shoe covers.
58.226 Portable and stationary bulk bins.
58.227 Sampling device.
58.228 Dump hoppers, screens, mixers and conveyors.
58.229 Filler and packaging equipment.
58.230 Heavy duty vacuum cleaners.

QUALITY SPECIFICATIONS FOR RAW MATERIALS

58.231 General.
58.232 Milk.
58.233 Skim milk.
58.234 Buttermilk.
58.235 Modified dry milk products.

OPERATIONS AND OPERATING PROCEDURES

58.236 Pasteurization and heat treatment.
58.237 Condensed surge supply.
58.238 Condensed storage tanks.
58.239 Drying.
58.240 Cooling dry products.
58.241 Packaging, repackaging and storage.
58.242 Product adulteration.
58.243 Checking quality.
58.244 Number of samples.
58.245 Method of official sample analysis.
58.246 Cleaning of dryers, collectors, conveyors, ducts, sifters and storage bins.
58.247 Insect and rodent control program.

Requirements for Finished Products Bearing USDA Official Identification

58.248 Nonfat dry milk.
58.249 Instant nonfat dry milk.
58.250 Dry whole milk.
58.251 Dry buttermilk.

Supplemental Specifications for Plants Manufacturing, Processing and Packaging Butter and Related Products

Definitions

58.305 Meaning of words.

Rooms and Compartments

58.311 Coolers and freezers.
58.312 Churn rooms.
58.313 Print and bulk packaging rooms.

Equipment and Utensils

58.314 General construction, repair and installation.
58.315 Continuous churns.
58.316 Conventional churns.
58.317 Bulk butter trucks, boats, texturizers, and packers.
58.318 Butter, frozen or plastic cream melting machines.
58.319 Printing equipment.
58.320 Brine tanks.
58.321 Cream storage tanks.

Quality Specifications for Raw Material

58.322 Cream.
58.323 Whipped butter.
58.324 Butteroil.
58.325 Anhydrous milkfat.
58.326 Plastic cream.
58.327 Frozen cream.
58.328 Salt.
58.329 Color.
58.330 Butter starter cultures.
58.331 Starter distillate.

Operations and Operating Procedures

58.332 Segregation of raw material.
58.334 Pasteurization.
58.335 Quality control tests.
58.336 Frequency of sampling for quality control of cream, butter and related products.
58.337 Official test methods.
58.338 Composition and wholesomeness.
58.339 Containers.
58.340 Printing and packaging.
58.341 Repackaging.
58.342 General identification.
58.343 Storage of finished product in coolers.
58.344 Storage of finished product in freezer.

Requirements for Finished Products Bearing USDA Official Identification

58.345 Butter.
58.346 Whipped butter.
58.347 Butteroil or anhydrous milkfat.
58.348 Plastic cream.
58.349 Frozen cream.

Supplemental Specifications for Plants Manufacturing and Packaging Cheese

Definitions

58.405 Meaning of words.

Rooms and Compartments

58.406 Starter facility.
58.407 Make room.
58.408 Brine room.
58.409 Drying room.
58.410 Paraffining room.
58.411 Rindless cheese wrapping area.
58.412 Coolers or curing rooms.
58.413 Cutting and packaging rooms.

Equipment and Utensils

58.414 General construction, repair and installation.
58.415 Starter vats.
58.416 Cheese vats, tanks and drain tables.
58.417 Mechanical agitators.
58.418 Automatic cheese making equipment.
58.419 Curd mill and miscellaneous equipment.
58.420 Hoops, forms and followers.
58.421 Press.
58.422 Brine tank.
58.423 Cheese vacuumizing chamber.
58.424 Monorail.
58.425 Conveyor for moving and draining block or barrel cheese.
58.426 Rindless cheese wrapping equipment.
58.427 Paraffin tanks.
58.428 Specialty equipment.
58.429 Washing machine.

Quality Specifications for Raw Material

58.430 Milk.
58.431 Hydrogen peroxide.
58.432 Catalase.
58.433 Cheese cultures.
58.434 Calcium chloride.
58.435 Color.
58.436 Rennet, pepsin, or other milk clotting enzymes and flavor enzymes.
58.437 Salt.

Operation and Operating Procedures

58.438 Cheese from pasteurized milk.
58.439 Cheese from unpasteurized milk.
58.440 Make schedule.
58.441 Records.

58.442 Laboratory and quality control tests.
58.443 Whey handling.
58.444 Packaging and repackaging.
58.445 General identification.

REQUIREMENTS FOR FINISHED PRODUCTS BEARING USDA OFFICIAL IDENTIFICATION

58.446 Quality requirements.

SUPPLEMENTAL SPECIFICATIONS FOR PLANTS MANUFACTURING AND PACKAGING COTTAGE CHEESE

DEFINITIONS

58.505 Meaning of words.

ROOMS AND COMPARTMENTS

58.510 Rooms and compartments.

EQUIPMENT AND UTENSILS

58.511 General construction, repair and installation.
58.512 Cheese vats or tanks.
58.513 Agitators.
58.514 Container fillers.
58.515 Mixers.
58.516 Starter vats.

QUALITY SPECIFICATIONS FOR RAW MATERIAL

58.517 General.
58.518 Milk.
58.519 Dairy products.
58.520 Nondairy ingredients.

OPERATIONS AND OPERATING PROCEDURES

58.521 Pasteurization and product flow.
58.522 Reconstituting nonfat dry milk.
58.523 Laboratory and quality control tests.
58.524 Packaging and general identification.
58.525 Storage of finished product.

REQUIREMENTS FOR COTTAGE CHEESE BEARING USDA OFFICIAL IDENTIFICATION

58.526 Official identification.
58.527 Physical requirements.
58.528 Microbiological requirements.
58.529 Chemical requirements.
58.530 Keeping quality requirements.

SUPPLEMENTAL SPECIFICATIONS FOR PLANTS MANUFACTURING, PROCESSING, AND PACKAGING FROZEN DESSERTS

DEFINITIONS

58.605 Meaning of words.

ROOMS AND COMPARTMENTS

58.619 Mix processing room.
58.620 Freezing and packaging rooms.
58.621 Freezing tunnels.
58.622 Hardening and storage rooms.

EQUIPMENT AND UTENSILS

58.623 Homogenizer.
58.624 Freezers.
58.625 Fruit or syrup feeders.
58.626 Packaging equipment.

QUALITY SPECIFICATIONS FOR RAW MATERIAL

58.627 Milk and dairy products.
58.628 Sweetening agents.
58.629 Flavoring agents.
58.630 Stabilizers.
58.631 Emulsifiers.
58.632 Acid.
58.633 Color.

OPERATIONS AND OPERATING PROCEDURES

58.634 Assembling and combining mix ingredients.
58.635 Pasteurization of the mix.
58.636 Homogenization.
58.637 Cooling the mix.
58.638 Freezing the mix.
58.639 Addition of flavor.
58.640 Packaging.
58.641 Hardening and storage.
58.642 Quality control tests.
58.643 Frequency of sampling.
58.644 Test methods.
58.645 General identification.

REQUIREMENTS FOR FINISHED PRODUCTS BEARING USDA OFFICIAL IDENTIFICATION

58.646 Official identification.
58.647 Composition requirements for ice cream.
58.648 Microbiological requirements for ice cream.
58.649 Physical requirements for ice cream.
58.650 Requirements for frozen custard.
58.651 Requirements for ice milk.
58.652 Composition requirements for sherbet.
58.653 Microbiological requirements for sherbet.
58.654 Physical requirements for sherbet.

SUPPLEMENTAL SPECIFICATIONS FOR PLANTS MANUFACTURING PROCESSING AND PACKAGING PASTEURIZED PROCESS CHEESE AND RELATED PRODUCTS

DEFINITIONS

58.705 Meaning of words.

EQUIPMENT AND UTENSILS

58.706 General construction, repair and installation.
58.707 Conveyors.
58.708 Grinders or shredders.
58.709 Cookers.
58.710 Fillers.

QUALITY SPECIFICATIONS FOR RAW MATERIAL

58.711 Cheddar, colby, washed or soaked curd, granular or stirred curd cheese.
58.712 Swiss.
58.713 Gruyere.
58.714 Cream cheese, Neufchatel cheese.
58.715 Cream, plastic cream and anhydrous milkfat.
58.716 Nonfat dry milk.
58.717 Whey.
58.718 Flavor ingredients.
58.719 Coloring.
58.720 Acidifying agents.
58.721 Salt.
58.722 Emulsifying agents.

OPERATIONS AND OPERATING PROCEDURES

58.723 Basis for selecting cheese for processing.
58.724 Blending.
58.725 Trimming and cleaning.
58.726 Cutting and grinding.
58.727 Adding optional ingredients.
58.728 Cooking the batch.
58.729 Forming containers.
58.730 Filling containers.
58.731 Closing and sealing containers.
58.732 Cooling the packaged cheese.
58.733 Quality control tests.

REQUIREMENTS FOR PROCESSED CHEESE PRODUCTS BEARING USDA OFFICIAL IDENTIFICATION

58.734 Official identification.
58.735 Quality specifications for raw materials.

QUALITY SPECIFICATIONS FOR FINISHED PRODUCTS

58.736 Pasteurized process cheese.
58.737 Pasteurized process cheese food.
58.738 Pasteurized process cheese spread and related products.

SUPPLEMENTAL SPECIFICATIONS FOR PLANTS MANUFACTURING, PROCESSING, AND PACKAGING WHEY, WHEY PRODUCTS AND LACTOSE

DEFINITIONS

58.805 Meaning of words.

ROOMS AND COMPARTMENTS

58.806 General.

EQUIPMENT AND UTENSILS

58.807 General construction, repair and installation.

QUALITY SPECIFICATIONS FOR RAW MATERIALS

58.808 Whey.

OPERATIONS AND OPERATING PROCEDURES

58.809 Pasteurization.
58.810 Temperature requirements.
58.811 General.
58.812 Methods of official sample analysis.

REQUIREMENTS FOR FINISHED PRODUCTS BEARING USDA OFFICIAL IDENTIFICATION

58.813 Dry Whey.

SUPPLEMENTAL SPECIFICATIONS FOR PLANTS MANUFACTURING, PROCESSING AND PACKAGING EVAPORATED, AND CONDENSED MILK OR ULTRA-PASTEURIZED PRODUCTS

DEFINITIONS

58.905 Meaning of words.

EQUIPMENT AND UTENSILS

58.912 General construction, repair and installation.
58.913 Evaporators and vacuum pans.
58.914 Fillers.
58.915 Batch or continuous in-container thermal processing equipment.
58.916 Homogenizer.

OPERATIONS AND OPERATING PROCEDURES

58.917 General.
58.918 Standardization.
58.919 Pre-heat, pasteurization.
58.920 Homogenization.
58.921 Concentration.
58.922 Thermal processing.
58.923 Filling containers.
58.924 Aseptic filling.
58.925 Sweetened condensed.
58.926 Heat stability.
58.927 Storage.
58.928 Quality control tests.
58.929 Frequency of sampling for quality control.
58.930 Official test methods.
58.931 General identification.

QUALITY SPECIFICATIONS FOR RAW MATERIALS

58.932 Milk.
58.933 Stabilizers.
58.934 Sugars.
58.935 Chocolate and cocoa.

REQUIREMENTS FOR FINISHED PRODUCTS BEARING USDA OFFICIAL IDENTIFICATION

58.936 Milk.
58.937 Physical requirements for evaporated milk.
58.938 Physical requirements and microbiological limits for sweetened condensed milk.

Subparts C-G—[Reserved]

Subpart H—U.S. Standards for Grades of Bulk American Cheese for Manufacturing

DEFINITIONS

58.2455 Bulk American cheese for manufacturing.
58.2456 Variety and type of cheese included.
58.2457 Types of packaging.

U.S. GRADES

58.2458 Nomenclature of U.S. grades.
58.2459 Basis for determination of U.S. grades.

EXPLANATION OF TERMS

58.2460 Explanation of terms.

Subpart I—U.S. Standards for Grades of Monterey (Monterey Jack) Cheese

DEFINITIONS

58.2465 Monterey (Monterey Jack) cheese.
58.2466 Types of surface protection.

U.S. GRADES

58.2467 Nomenclature of U.S. grades.
58.2468 Basis for determination of U.S. grades.
58.2469 Specifications for U.S. grades of Monterey (Monterey Jack) cheese.
58.2470 U.S. grade not assignable.

EXPLANATION OF TERMS

58.2471 Explanation of terms.

Subpart J—U.S. Standards for Grades of Colby Cheese

DEFINITIONS

58.2475 Colby cheese.
58.2476 Types of surface protection.

U.S. GRADES

58.2477 Nomenclature of U.S. grades.
58.2478 Basis for determination of U.S. grades.
58.2479 Specifications for U.S. grades of Colby cheese.
58.2480 U.S. grade not assignable.

EXPLANATION OF TERMS

58.2481 Explanation of terms.

Subpart K—United States Standards for Grades of Cheddar Cheese

58.2501 Cheddar cheese.
58.2502 Types of packaging.
58.2503 Nomenclature of U.S. Grades.
58.2504 Basis for determination of U.S. Grades.
58.2505 Specifications for U.S. Grades of cheddar cheese.
58.2506 Explanation of terms.

Subpart L—United States Standards for Grades of Nonfat Dry Milk (Spray Process)

DEFINITIONS

58.2525 Nonfat dry milk.

U.S. GRADES

58.2526 Nomenclature of U.S. grades.
58.2527 Basis for determination of U.S. grades.
58.2528 Specifications for U.S. grades.
58.2529 U.S. grade not assignable.
58.2532 Test methods.

EXPLANATION OF TERMS

58.2537 Explanation of terms.

SUPPLEMENT TO U.S. STANDARDS FOR GRADES OF NONFAT DRY MILK (SPRAY PROCESS): U.S. HEAT TREATMENT CLASSIFICATION

58.2538 Basis for obtaining Heat Treatment Classification.
58.2539 Nomenclature of U.S. Heat Treatment Classification.
58.2540 Basis for determination of U.S. Heat Treatment Classification.
58.2541 Test method: whey protein nitrogen.

Subpart M—United States Standards for Grades of Nonfat Dry Milk (Roller Process)

DEFINITIONS

58.2550 Nonfat dry milk.

U.S. GRADES

58.2551 Nonmenclature of U.S. grades.
58.2552 Basis for determination of U.S. grades.
58.2553 Specifications for U.S. grades.
58.2554 U.S. grade not assignable.
58.2558 Test Methods.

EXPLANATION OF TERMS

58.2562 Explanation of Terms.

Subpart N—United States Standards for Grades of Swiss Cheese, Emmentaler Cheese[2]

DEFINITION

58.2570 Swiss cheese, Emmentaler cheese.

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[2] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

58.2571 Types of packaging.

U.S. GRADES

58.2572 Nomenclature of U.S. grades.
58.2573 Basis for determination of U.S. grades.

EXPLANATION OF TERMS

58.2574 Explanation of terms.

Subpart O—United States Standards for Dry Whey [2]

DEFINITIONS

58.2601 Whey.
58.2602 Dry Whey.

U.S. GRADE

58.2603 Nomenclature of U.S. grade.
58.2604 Basis for determination of U.S. grade.
58.2605 Requirements for U.S. grade.
58.2606 Basis for acidity classification.
58.2607 [Reserved]
58.2608 Optional tests.
58.2609 U.S. grade not assignable.
58.2610 Test methods.

EXPLANATION OF TERMS

58.2611 Explanation of terms.

Subpart P—United States Standards for Grades of Butter

DEFINITIONS

58.2621 Butter.
58.2622 Cream.

U.S. GRADES

58.2625 Nomenclature of U.S. grades.
58.2626 Basis for determination of U.S. grade.
58.2627 Specifications for U.S. grades of butter.
58.2628 Relation of U.S. grade of butter to the flavor classification as affected by disratings in body, color and salt characteristics.
58.2629 U.S. grade not assignable.
58.2635 Explanation of terms.

Subpart Q—United States Standards for Grades of Dry Sweetcream Buttermilk[1]

DEFINITION

58.2651 Dry sweetcream buttermilk.

U.S. GRADES

58.2652 Nomenclature of U.S. grades.
58.2653 Basis for determination of U.S. grades.
58.2654 Specifications for U.S. grades.
58.2655 U.S. grade not assignable.
58.2656 Test methods.

EXPLANATION OF TERMS

58.2657 Explanation of terms.

Subpart R—United States Scorched Particle Standards for Dry Milks

58.2676 United States scorched particle standards for dry milks.
58.2677 Preparation of discs.
58.2678 General.

Subpart S—United States Standards for Grades of Dry Whole Milk

DEFINITIONS

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58.2731 United States sediment standards for milk and milk products: three 0.40" diameter filtering area (fine sediment).
58.2732 United States sediment standards for milk and milk products: for 0.10", 0.14", and 0.20" diameter filtering areas (fine sediment).

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[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

Subpart U—United States Standards for Instant Nonfat Dry Milk

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58.2800 Definitions.

U.S. GRADES

58.2801 Nomenclature of U.S. grades.
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Subpart W—United States Department of Agriculture Standard for Ice Cream

58.2825 United States Standard for Ice Cream.
58.2826 General identification.
58.2827 Official identification.

AUTHORITY: Secs. 202-208, 60 Stat. 1087, as amended; 7 U.S.C. 1621-1627, unless otherwise noted.

SOURCE: 23 FR 9410, Dec. 5, 1958, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981.

EDITORIAL NOTE: Nomenclature changes to Part 58 appear at 37 FR 8059, Apr. 25, 1972; 42 FR 32514, June 27, 1977; and 46 FR 63203, Dec. 31, 1981.

NOTE: Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

Subpart A—Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products

SOURCE: 37 FR 22363, Oct. 19, 1972, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981.

DEFINITIONS

§ 58.1 Meaning of words.

For the purpose of the regulations in this subpart, words in the singular form shall be deemed to import the plural and vice versa, as the case may demand. Unless the context otherwise requires, the following terms shall have the following meaning:

"Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621-1627) or any other act of Congress conferring like authority.

"Administrator" means the Administrator of the Agricultural Marketing Service or any other officer or employee of the Agricultural Marketing Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

"Agricultural Marketing Service" or "AMS" means the Agricultural Marketing Service of the Department.

"Applicant" means any interested party who has applied for inspection or grading service.

"Approved laboratory" means a laboratory in which the facilities and equipment used for official testing have been adequate to perform the necessary official tests in accordance with this part.

"Approved plant" means one or more adjacent buildings, or parts thereof, comprising a single plant at one location in which the facilities and methods of operation therein have been surveyed and approved by the Administrator as suitable and adequate for inspection or grading service in accordance with this part.

"Area Supervisor" means any employee of the Branch in charge of dairy inspection or grading service in a designated geographical area.

"Branch" means the Dairy Inspection Branch of the Poultry and Dairy Quality Division.

"Chief" means the Chief of the Branch, or any officer or employee of the Branch to whom authority has been heretofore delegated, or to whom authority may hereafter be delegated, to act in his stead.

"Class" means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind or method of processing.

"Condition of container" means the degree of acceptability of the container with respect to freedom from defects which affect its serviceability, including appearance as well as usability, of the container for its intended purpose.

"Condition of product" or "Condition" is an expression of the extent to which a product is free from defects which affect its usuability, including but not limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food.

"Continuous resident service" or "resident service" is inspection or grading service performed at a dairy manufacturing plant or grading station by an inspector or grader assigned to the plant or station on a continuous, year-round, resident basis.

"Continuous nonresident service" is inspection or grading service performed by an inspector or grader temporarily assigned to a plant on a continuous, short-term, nonresident basis to perform service such as supervision of packaging or processing products for contract delivery.

"Department" or "USDA" means the U.S. Department of Agriculture.

"Director" means the Director of the Poultry and Dairy Quality Division, or any other officer or employee of the Division to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

"Division" means the Poultry and Dairy Quality Division of the Agricultural Marketing Service.

"Inspection or grading service" or "service" means in accordance with this part, the act of (a) drawing samples of any product; (b) determining the class, grade, quality, composition, size, quantity, or condition of any product by examining each unit or representative samples; (c) determining condition of product containers; (d) identifying any product or packaging material by means of official identification; (e) regrading or appeal grading of a previously graded product; (f) inspecting dairy plant facilities, equipment, and operations; such as, processing, manufacturing, packaging, repackaging, and quality control; (g) supervision of packaging inspected or graded product; (h) reinspection or appeal inspection; and (i) issuing an inspection or grading certificate or sampling, inspection, or other report related to any of the foregoing.

"Inspector or grader" means any Federal or State employee to whom a license has been issued by the Administrator to perform one or more types of inspection or grading services.

"Inspection or grading office" means the office of any inspector or grader.

"Interested party" means any person financially interested in a transaction involving any inspection or grading service.

"Licensed plant employee" means an employee of an approved plant to whom a license is issued by the Administrator to supervise packaging of officially inspected or graded product, perform laboratory tests, or perform other duties as assigned by the Administrator. A licensed plant employee is not authorized to issue any inspection or grading certificate.

"Product" means butter, cheese (whether natural or processed), milk, cream, milk products (whether dried, frozen, evaporated, stabilized, or condensed), ice cream, dry whey, dry buttermilk, and any other food product, which is prepared or manufactured in whole or in part from any of the aforesaid products, as the Administrator may hereafter designate.

"Person" means any individual, partnership, association, business, trust, corporation, or any organized group of persons, whether incorporated or not.

"Plant survey" means an appraisal of the plant to determine extent to which facilities, equipment, method of operation, and raw material being received are in accordance with the provisions of this part. The survey shall be used to determine suitability of the plant for inspection or grading service.

"Quality" means the inherent properties of any product which determine its relative degree of excellence.

"Regulations" means the provisions of this subpart.

"Sampling report" means a statement issued by an inspector or grader identifying samples taken by him for inspection or grading service.

"Supervisor of packaging" means an employee of the Department or other person licensed by the Administrator to supervise the packaging and official identification of product or any repackaging of bulk product.

(60 Stat. 1087, 7 U.S.C. 1621 et seq.; 84 Stat. 1620, 21 U.S.C. 1031 et seq.)

[37 FR 22363, Oct. 19, 1972, as amended at 38 FR 4381, Feb. 14, 1973. Redesignated at 42 FR 32514, June 27, 1977, and further amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 58.2 Designation of official certificates, memoranda, marks, identifications, and devices for purpose of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Pub. L. 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said Act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed (including that prescribed in § 58.18) used under the regulations in this subpart to certify with respect to the inspection of dairy processing plants and the inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products and packaging material with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of inspecting, grading, determining compliance, or sampling pursuant to the regulations in this subpart, any processing or plant-operation report made by an authorized person in connection with inspecting, grading, determining compliance, or sampling under the regulations in this subpart, and any report made by an authorized person of services performed pursuant to the regulations in this subpart.

(c) "Official identification" or "other official marks" means any form of identification or mark (including, but not limited to, those in §§ 58.49 through 58.51) approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product certifying the inspection, class, grade, quality, size, quantity, or condition of the products (including the compliance of products with applicable specifications) or to maintain the identity of the product for which service is provided under the regulations in this subpart.

(d) "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

ADMINISTRATION

§ 58.3 Authority.

The Administrator shall perform such duties as may be required in the enforcement and administration of the provisions of the Act and this part.

INSPECTION OR GRADING SERVICE

§ 58.4 Basis of service.

Inspection or grading service shall be performed in accordance with the provisions of this part, the instructions and procedures issued or approved by the Administrator, U.S. standards for grades, Federal specifications, and specifications as defined in a specific purchase contract. All services provided in accordance with these regulations shall be rendered without discrimination on the basis of race, color, creed, or national origin.

[39 FR 986, Jan. 4, 1974. Redesignated at 42 FR 32514, June 27, 1977, and 46 FR 63203, Dec. 31, 1981]

§ 58.5 Where service is offered.

Subject to the provisions of this part, inspection or grading service may be performed when a qualified inspector or grader is available, and when the facilities and conditions are satisfactory for the conduct of the service.

§ 58.6 Supervision of service.

All inspection or grading service shall be subject to supervision by a supervisory inspector or grader, Area Supervisor, or by the Chief, or such other person of the Branch as may be designated by the Chief. Whenever there is evidence that inspection or grading service has been incorrectly performed, a supervisor shall immediately make a reinspection or regrading, and he shall supersede the previous inspection or grading certificate or report with a new certificate or report showing the corrected information.

§ 58.7 Who may obtain service.

An application for inspection or grading service may be made by any interested person, including, but not limited to, the United States, any State, county, municipality, or common carrier, or any authorized agent of the foregoing.

§ 58.8 How to make application.

(a) *On a fee basis.* An application for inspection or grading service may be made in any inspection or grading office or with any inspector or grader. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation may be required.

(b) *On a continuous basis.* Application for inspection or grading service on a continuous basis as provided in § 58.45 shall be made in writing on application forms as approved by the Administrator and filed with the Administrator.

§ 58.9 Form of application.

Each application for inspection or grading service shall include such information as may be required by the Administrator in regard to the type of service; kind of products and place of manufacture, processing, or packaging; and location where service is desired.

§ 58.10 Filing of application.

An application for inspection or grading service shall be regarded as filed only when made pursuant to this subpart.

§ 58.11 Approval of application.

An application for inspection or grading service may be approved when (a) a qualified inspector or grader is available, (b) facilities and conditions are satisfactory for the conduct of the service, and (c) the product has been manufactured or processed in a plant approved for inspection or grading service in accordance with the provisions of this part and instructions issued thereunder.

§ 58.12 When application may be rejected.

An application for inspection or grading service may be rejected by the Administrator (a) when the applicant fails to meet the requirements of the regulations in this subpart prescribing the conditions under which the service is made available; (b) when the product is owned by, or located on the premises of, a person currently denied the benefits of the Act; (c) when an individual holding office or a responsible position with or having a substantial financial interest or share with the applicant is currently denied the benefits of the Act or was responsible in whole or in part for the current denial of the benefits of the Act to any person; (d) when the application is an attempt on the part of a person currently denied the benefits of the Act to obtain inspection or grading service; (e) when the product was produced from unwholesome raw material or was produced under insanitary or otherwise unsatisfactory conditions; (f) when the product is of illegal composition or is lacking satisfactory keeping quality; (g) when the product has been produced in a plant which has not been surveyed and approved for inspection or grading service; (h) when payment of fees is delinquent over 60 days; or (i) when there is noncompliance with the Act or this part or instructions issued hereunder. When an application is rejected, the applicant shall be notified in writing by the Area Supervisor or his designated representative, the reason or reasons for the rejection.

§ 58.13 When application may be withdrawn.

An application for inspection or grading service may be withdrawn by the applicant at any time before the service is performed upon payment, by the applicant, of all expenses incurred by AMS in connection with such application.

§ 58.14 Authority of applicant.

Proof of the authority of any person applying for any inspection or grading service may be required in the discretion of the Administrator.

§ 58.15 Accessibility and condition of product.

Each lot of product for which inspection or grading service is requested shall be so conditioned and placed as to permit selection of representative samples and proper determination of the class, grade, quality, quantity, or condition of such product. In addition, if sample packages are furnished by the applicant, such samples shall be representative of the lot to be inspected or graded and additional samples shall be made available for verification. The room or area where the service is to be performed shall be clean and sanitary, free from foreign odors, and shall be provided with adequate lighting, ventilation, and temperature control.

§ 58.16 Disposition of samples.

Any sample of product used for inspection or grading may be returned to the applicant at his request and at his expense if such request was made at the time of the application for the service. In the event the aforesaid request was not made at the time of application for the service, the sample of product may be destroyed, disposed of to a charitable organization, or disposed of by any other method prescribed by the Administrator.

§ 58.17 Order of service.

Inspection or grading service shall be performed, insofar as practicable and subject to the availability of qualified inspectors or graders, in the order in which applications are made except that precedence may be given to any application for an appeal inspection or grading.

§ 58.18 Inspection or grading certificates, memoranda, or reports.

Inspection or grading certificates and sampling, plant survey, and other memoranda or reports shall be issued on forms approved by the Administrator.

§ 58.19 Issuance of inspection or grading certificates.

An inspection or grading certificate shall be issued to cover a product inspected or graded in accordance with instructions issued by the Administrator and shall be signed by an inspector or grader. This does not preclude an inspector or grader from granting a power of attorney to another person to sign in his stead, if such grant of power of attorney has been approved by the Administrator: *Provided,* That in all cases any such certificate shall be prepared in accordance with the facts set forth in the official memorandum defined in § 58.2(b): And provided further, that whenever a certificate is signed by a person under a power of attorney the certificate should so indicate. The signature of the holder of the power shall appear in conjunction with the name of the grader or inspector who personally graded or inspected the product.

[39 FR 986, Jan. 4, 1974. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 58.20 Disposition of inspection or grading certificates or reports.

The original of any inspection or grading certificate or report issued pursuant to § 58.19, and not to exceed four copies thereof, shall immediately upon issuance be delivered or mailed to the applicant or person designated by him. One copy shall be filed in the inspection and grading office serving the area in which the service was performed and all other copies shall be filed in such manner as the Administrator may approve. Additional copies of any such certificate or report may be supplied to any interested party as provided in § 58.41.

§ 58.21 Advance information.

Upon request of an applicant, all or part of the contents of any inspection or grading certificate or report issued to such applicant may be telephoned or telegraphed to him, or to any person designed by him, at applicant's expense.

APPEAL INSPECTION OR GRADING AND REINSTATEMENT OF REGRADING

§ 58.22 When appeal inspection or grading may be requested.

(a) An application for an appeal inspection or grading may be made by any interested party who is dissatisfied with any determination stated in any inspection or grading certificate or report if the identity of the samples or the product has not been lost; or the conditions under which inspection service was performed have not changed. Such application for appeal inspection or grading shall be made within 2 days following the day on which the service was performed. Upon approval by the Administrator, the time within which an application for an appeal grading may be made may be extended.

(b) An appeal inspection shall be limited to a review of the sampling procedure and in analysis of the official sample used, when, as a result of the original inspection, the commodity was found to be contaminated with filthy, putrid, and decomposed material. If it is determined that the sampling procedures were improper, a new sample shall be obtained.

§ 58.23 How to obtain appeal inspection or grading.

Appeal inspection or grading may be obtained by filing a request therefore, (a) with the Administrator, (b) with the inspector or grader who issued the inspection or grading certificate or report with respect to which the appeal service is requested, or (c) with the supervisor of such inspector or grader. The application for appeal inspection or grading shall state the reasons therefore, and may be accompanied by a copy of the aforesaid inspection or grading certificate or report or any other information the applicant may have secured regarding the product or the service from which the appeal is requested. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation may be required.

§ 58.24 Record of filing time.

A record showing the date and hour when each such application for appeal inspection or grading is received shall be maintained in such manner as the Administrator may prescribe.

§ 58.25 When an application for appeal inspection or grading may be refused.

The Administrator may refuse an application for an appeal inspection or grading when (a) the quality or condition of the products has undergone a material change since the time of original service, (b) the identical products inspected or graded cannot be made accessible for reinspection or regrading, (c) the conditions under which inspection service was performed have changed, (d) it appears that the reasons for an appeal inspection or grading are frivolous or not substantial, or (e) the Act or this part have not been complied with. The applicant shall be promptly notified of the reason for such refusal.

§ 58.26 When an application for an appeal inspection or grading may be withdrawn.

An application for appeal inspection or grading may be withdrawn by the applicant at any time before the appeal inspection or grading is made upon payment, by the applicant, of all expenses incurred by AMS in connection with such application.

§ 58.27 Order in which appeal inspections or gradings are performed.

Appeal inspections or gradings shall be performed, insofar as practicable, in the order in which applications therefor are received; and any such application may be given precedence pursuant to § 58.17.

§ 58.28 Who shall make appeal inspections or gradings.

An appeal inspection or grading of any product or service shall be made by any inspector or grader (other than the one from whose service the appeal is made) designated for this purpose by the Administrator; and, whenever practical, such appeal inspection or grading shall be conducted jointly by two such inspectors or graders.

§ 58.29 Appeal inspection or grading certificate or report.

Immediately after an appeal inspection or grading has been completed, an appeal inspection or grading certificate or report shall be issued showing the results of the inspection or grading. Such certificate or report shall thereupon supersede the previous certificate or report and will be effective retroactive to the date of the previous certificate or report. Each appeal certificate or report shall clearly set forth the number and the date of the previous certificate or report which it supersedes. The provisions of §§ 58.18 through 58.21 shall, whenever applicable, also apply to appeal certificates or reports except that copies shall be furnished each interested party of record.

§ 58.30 Application for reinspection or regrading.

An application for the reinspection or regrading of any previously inspected or graded product may be made at any time by any interested party; and such application shall clearly indicate the reasons for requesting the reinspection or regrading. The provisions of the regulations in this subpart relative to inspection or grading service shall apply to reinspection or regrading service.

§ 58.31 Reinspection or regrading certificate or report.

Immediately after a reinspection or regrading has been completed, a reinspection or a regrading certificate or report shall be issued showing the results of such reinspection or regrading; and such certificate or report shall thereupon supersede, as of the time of issuance, the inspection or grading certificate or report previously issued. Each reinspection or regrading certificate or report shall clearly set forth the number and date of the inspection or grading certificate or report that it supersedes. The provisions of §§ 58.18 through 58.21 shall, whenever applicable, also apply to reinspection or regrading certificates or reports except that copies shall be furnished each interested party of record.

§ 58.32 Superseded certificates or reports.

When any inspection or grading certificate or report is superseded in accordance with this part, such certificate or report shall become null and void and, after the effective time of the supersedure, shall no longer represent the class, grade, quality, quantity, or condition described therein. If the original and all copies of such superseded certificate or report are not returned to the inspector or grader issuing the reinspection or regrading or appeal inspection or grading certificate or report, the inspector or grader shall notify such persons as he considers necessary to prevent fraudulent use of the superseded certificate or report.

LICENSING OF INSPECTORS OR GRADERS

§ 58.33 Who may be licensed.

Any person possessing proper qualifications, as determined by an examination for competency, held at such time and in such manner as may be prescribed by the Administrator, may be licensed to perform specified inspection or grading service. Each license issued shall be signed by the Administrator. Each prospective licensee, other than a Federal or State employee, who is not under immediate supervision of a USDA licensed Federal or State employee located at the same manufacturing plant or grading station, shall, prior to the issuance of the license, procure and deliver to AMS a surety bond, issued by such surety as may be approved by the Administrator, in the amount of $1,000 for the proper performance of the duties of such person as a licensee under the regulations in this subpart.

§ 58.34 Suspension or revocation of license.

For good cause and in instances of willful wrongdoing, the Administrator may suspend any license issued under the regulations in this subpart by giving notice of such suspension to the respective individual involved, accompanied by a statement of reasons therefor. Within 10 days after receipt of the aforesaid notice and statement of reasons by such individual, he may file an appeal in writing with the Administrator supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. In conjunction therewith, he may request and, in such event, shall be accorded an oral hearing. After consideration of such argument and evidence, the Administrator will take such action as warranted with respect to such suspension or revocation. When no appeal is filed within the prescribed 10 days, the license is revoked.

§ 58.35 Surrender of license.

Each license which is suspended or revoked shall be surrendered promptly by the licensee to his supervisor. Upon termination of the services of a licensee, the license shall be surrendered promptly by the licensee to his supervisor.

§ 58.36 Identification.

Each licensee shall have his license card in his possession at all times while performing any function under the regulations in this subpart and shall identify himself by such card upon request.

§ 58.37 Financial interest of licensees.

No licensee shall render service on any product in which he is financially interested.

FEES AND CHARGES

§ 58.38 Payment of fees and charges.

(a) Fees and charges for any inspection or grading service shall be paid by the interested party, making the application for such service, in accordance with the applicable provisions of this section and §§ 58.39 through 58.46 and, if so required by the inspector or grader, such fees and charges shall be paid in advance.

(b) Fees and charges for any inspection or grading service performed by any inspector or grader who is a salaried employee of the Department shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by the interested party making application for such inspection or grading service by check, draft, or money order payable to the Agricultural Marketing Service and remitted promptly to the office indicated on the bill.

(c) Fees and charges for any inspection or grading service under a cooperative agreement with any State or person shall be paid in accordance with the terms of the cooperative agreement by the interested party making application for the service.

§ 58.39 Fees for holiday or other nonworktime.

If an applicant requests that inspection or grading service be performed on a holiday, Saturday, or Sunday or in excess of each 8-hour shift Monday through Friday, he shall be charged for such service at a rate of 1½ times the rate which would be applicable for such service if performed during normal working hours.

§ 58.40 Fees for appeal inspection or grading.

The fees to be charged for any appeal inspection or grading shall be double the fees specified on the inspection or grading certificate from which the appeal is taken: *Provided*, That the fee for any appeal grading requested by any agency of the U.S. Government shall be the same as set forth in the certificate from which the appeal is taken. If the result of any appeal inspection or grading discloses that a material error was made in the inspection or grading appealed from, no fee shall be required.

§ 58.41 Fees for additional copies of certificates.

Additional copies of any inspection or grading certificates (including take-off certificates), other than those provided for in § 58.20, may be supplied to any interested party upon payment of a fee based on time required to prepare such copies at the hourly rate specified in § 58.43 or § 58.44.

§ 58.42 Travel expenses and other charges.

Charges shall be made to cover the cost of travel and other expenses incurred by AMS in connection with the performance of any inspection or grading service. Such charges shall include the costs of travel, per diem, and other expenses, plus a charge of 10 percent of the amount charged for said travel, per diem and other expenses to cover administrative costs of AMS. When the Administrator determines it feasible, he may set a minimum average charge for specific location or markets.

[41 FR 48509, Nov. 4, 1976. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 58.43 Fees for inspection, grading and sampling.

Except as otherwise provided in this section and §§ 58.38 through 58.47, charges shall be made for inspection, grading and sampling service at the hourly rate of $19 for service performed between 6 a.m. and 6 p.m., and $21 for service performed between 6 p.m. and 6 a.m., for the time required to perform the service calculated to the nearest 15-minute period, including the time required for preparation of certificates and reports, and travel of the inspector or grader in connection with the performance of the service. When the Administrator determines it feasible, he may set a minimum charge based on average time for specific types of service. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued.

[42 FR 57301, Nov. 2, 1977. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 58.44 Fees for laboratory analysis.

Except as otherwise provided in this section and §§ 58.45 and 58.46, charges shall be made for laboratory analysis at the hourly rate of $20.30 for the time required to perform the service. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued. The following minimum rates based on average time required to perform the test specified shall apply unless the actual time required to perform the test is greater than the minimum set forth:

(a) *Dry milk and related products:*	
Total fat (ether extraction)	3.70
Moisture	2.85
Titratable acidity	1.40
Solubility index	1.90
Scorched particles	1.90
Bacterial plate count	3.70
Bacterial direct microscopic count	5.50
Flavor	.95
Whey protein nitrogen	9.25
Vitamin A	18.35
Alkalinity of Ash	20.30
Dispersibility	9.25
Coliform (solid media)	3.70
Salmonella	14.75
Phosphatase	20.30
Oxygen	11.00
Density	1.40
(b) *Condensed milk and related products:*	
Fat (fat extraction)	5.50
Total solids	3.70
Sugar (sucrose)	20.30
Net Weight (per can)	2.25
Flavor, color, body, texture	1.40
(c) *Cheese and related products:*	
Moisture	3.70
Moisture in duplicate	5.50
Total fat (ether extraction)	6.45
Moisture and fat (dry basis) complete	10.15
(d) *Butter and related products:*	
Moisture	3.70
Fat	7.30
Salt	3.70
Complete Kohman analysis	11.00
Fat and moisture (same sample)	9.25
Flavor, odor, body, texture	1.90
Peroxide value	20.30
Free fatty acid	9.25
Yeast and mold	4.65
Proteolytic count	4.65
(e) *Corn-Soya-Milk:*	
Sieve test	3.70
Density	1.40
Bostwick-uncooked	4.65
Bostwick-cooked	9.25
Protein (Kjeldahl)	9.25
Fat (Soxhlet)	6.45
Moisture	2.85
Crude fiber	12.90
Flavor	.85

[42 FR 57301, Nov. 2, 1977. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 58.45 Fees for continuous resident service.

Irrespective of the fees and charges provided in §§ 58.39 and 58.43, charges for the inspector or grader in charge of a continuous resident program shall be made at the rate of $15.60/hour for service performed during the assigned tour of duty. Charges for the assistant inspector or grader shall be at the rate of $13.60/hour for the assigned tour of duty. Charges for service performed in excess of the assigned tour of duty shall be at a rate of 1½ times the rate stated in this section.

[42 FR 57301, Nov. 2, 1977. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 58.46 Fees for service performed under cooperative agreement.

The fees to be charged and collected for any service performed under cooperative agreement shall be those provided for by such agreement.

§ 58.47 Fees for continuous nonresident service.

Irrespective of the fees in §§ 58.39, 58.42 and 58.43, charges for continuous nonresident service shall be made at the hourly rate of $25.80 for services performed between 6 a.m. and 6 p.m., and $27.80 for services performed between 6 p.m. and 6 a.m., for the number of hours each inspector or grader is assigned including travel time at beginning and end of period. The costs of travel are included in this hourly rate. The charge for holiday, Saturday or Sunday work or overtime (work in excess of each 8-hour shift Monday through Friday) shall be at $35.30/hour.

[42 FR 57301, Nov. 2, 1977. Redesignated at 46 FR 63203, Dec. 31, 1981]

MARKING, BRANDING, AND IDENTIFYING PRODUCT

§ 58.49 Authority to use official identification.

Whenever the Administrator determines that the granting of authority to any person to package any product, inspected or graded pursuant to this part, and to use official identification, pursuant to §§ 58.49 through 58.57, will not be inconsistent with the Act and this part, he may authorize such use of official identification. Any application for such authority shall be submitted to the Administrator in such form as he may require.

§ 58.50 Approval and form of official identification.

(a) Any package label or packaging material which bears any official identification shall be used only in such manner as the Administrator may prescribe, and such official identification shall be of such form and contain such information as the Administrator may require. No label or packaging material bearing official identification shall be used unless finished copies or samples thereof have been approved by the Administrator.

(b) Inspection or grade mark permitted to be used to officially identify packages containing dairy products which are inspected or graded pursuant to this part shall be contained in a shield in the form and design indicated in Figures 1, 2, and 3 of this section or such other form, design, or wording as may be approved by the Administrator.

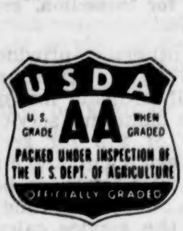
USDA
U.S. GRADE
AA
WHEN GRADED
PACKED UNDER INSPECTION OF THE U. S. DEPT. OF AGRICULTURE
OFFICIALLY GRADED

FIGURE 1.

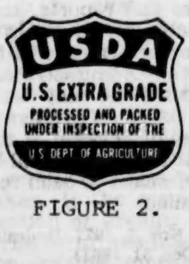
USDA
U.S. EXTRA GRADE
PROCESSED AND PACKED UNDER INSPECTION OF THE
U.S. DEPT. OF AGRICULTURE

FIGURE 2.

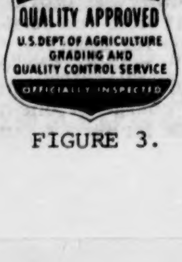
USDA
QUALITY APPROVED
U.S. DEPT. OF AGRICULTURE GRADING AND QUALITY CONTROL SERVICE
OFFICIALLY INSPECTED

FIGURE 3.

The official identification illustrated in Figure 1 is designed for use on graded product packed under USDA inspection. Figure 2 is designed for graded product processed and packed under USDA inspection. Figure 3 is designated for inspected product (when U.S. standards for grades are not established) processed and packed under USDA quality control service. The official identification shall be printed on the package label, on the carton or on the wrapper and, preferably, on one of the main panels of the carton or wrapper. The shield identification shall be not less than ¾ inch by ¾ inch in size, and preferably 1 inch by 1 inch on 1-pound cartons or wrappers. Consideration will be given by the Administrator of a smaller shield on special packages where the size of the label does not permit use of the ¾ inch by ¾ inch shield.

(c) Official identification under this subpart shall be limited to U.S. Grade B or higher or to an equivalent standard of quality for U.S. name grades or numerical score grades when U.S. standards for grades of a product have not been established.

(d) A sketch, proof, or photocopy of each proposed label or packaging material bearing official identification shall be submitted to the Chief of the Dairy Inspection Branch, Poultry and Dairy Quality Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, for review and tentative approval prior to acquisition of a supply of material.

(e) The firm packaging the product shall furnish to the Chief four copies of the printed labels and packaging materials bearing official identification for final approval prior to use.

(60 Stat. 1087, 7 U.S.C. 1621 et seq.; 84 Stat. 1620, 21 U.S.C. 1031 et seq.)

[37 FR 22363, Oct. 19, 1972, as amended at 39 FR 987, Jan. 4, 1974. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 58.51 Information required on official identification.

Each official identification shall conspicuously indicate the U.S. grade of the product it identifies, if there be a grade, or such other appropriate terminology as may be approved by the Administrator. Also, it shall include the appropriate phrase: "Officially graded," "Officially Inspected," or "Federal-State graded." When required by the Administrator, the package label, carton, or wrapper bearing official identification for dairy products shall be stamped or perforated with the date packed and the certificate number or a code number to indicate lot and date packed. Such coding shall be made available to and approved by the Administrator.

§ 58.52 Time limit for packaging inspected or graded products with official identification.

Any lot of butter which is graded for packaging with official grade identification shall be packaged within 10 days immediately following the date of grading, and any lot of natural cheese or dry milk shall be packaged within 30 days immediately following date of grading provided the product is properly stored during the 10- or 30-day period. Time limit for packaging other inspected or graded products shall be as approved by the Administrator. If inspected or graded product is moved to another location, a reinspection or regrading shall be required.

PREREQUISITES TO PACKAGING PRODUCTS WITH OFFICIAL IDENTIFICATION

§ 58.53 Supervisor of packaging required.

The official identification of any inspected or graded product, as provided in §§ 58.50 through 58.52, this section, and §§ 58.54 through 58.57, shall be done only under the supervision of a supervisor of packaging. The authority to use official identification may be granted by the Administrator only to applicants who utilize the services of a supervisor of packaging in accordance with this subpart. The supervisor of packaging shall have jurisdiction over the use and handling of all packaging material bearing any official identification.

§ 58.54 Packing and packaging room and equipment.

Each applicant who is granted authority to package any product with official identification and who operates, for such purpose, a packaging room shall maintain the room and the equipment therein in accordance with this part.

§ 58.55 Facilities for keeping quality samples.

Each applicant granted authority, as aforesaid, to package product with official identification shall provide and maintain suitable equipment for the purpose of incubating samples of product.

§ 58.56 Incubation of product samples.

(a) Samples of product may be taken from any lot of product which is submitted for inspection or grading and packaging with official identification, or sample may be taken after packaging for the purpose of determining in accordance with provisions of this part if such product possesses satisfactory keeping quality.

(b) Samples of product may be taken for keeping quality tests in accordance with provisions of this part from any lot of product submitted for inspection or grading. Issuance of the inspection or grading certificate may be withheld pending completion of the tests.

§ 58.57 Product not eligible for packaging with official identification.

(a) When a lot of inspected or graded product shows unsatisfactory keeping quality, other lots from the same manufacturing plant shall not be packaged with official identification. Packaging with official identification may be resumed only when it is determined that product from such plant possesses satisfactory keeping quality.

(b) Any manufacturing or processing plant supplying product, directly or indirectly, for packaging with official identification shall be surveyed and approved for inspection or grading service.

VIOLATIONS

§ 58.58 Debarment of service.

(a) The following acts or practices, or the causing thereof, may be deemed sufficient cause for the debarment, by the Administrator, of any person, including any agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the Act for a specified period. The rules of practice governing withdrawal of inspection and grading services in formal adjudicatory proceedings instituted by the Secretary (7 CFR, Part 1, Subpart H) shall be applicable to such debarment action.

(1) *Fraud or misrepresentation.* Any willful misrepresentation or deceptive or fraudulent practice or act found to be made or committed by any person in connection with:

(i) The making or filing of any application for any inspection or grading service, appeal reinspection, or regrading service;

(ii) The making of the product accessible for inspection or grading service;

(iii) The making, issuing, or using or attempting to issue or use any inspection or grading certificate issued pursuant to the regulations in this subpart or the use of any official stamp, label, or identification;

(iv) The use of the terms, "United States," "U.S.," "Officially graded," "Officially Inspected," "Federal-State graded," or "Government graded," or terms of similar import in the labeling or advertising of any product without stating in conjunction therewith the official U.S. grade of the product; or

(v) The use of any of the aforesaid terms or an official stamp, label, or identification in the labeling or advertising of any product that has not been inspected or graded pursuant to this part.

(2) *Use of facsimile form.* Using or attempting to use a form which simulates in whole or in part any official identification for the purpose of purporting to evidence the U.S. grade of any product; or the unauthorized use of a facsimile form which simulates in whole or in part any official inspection or grading certificate, stamp, label, or other official inspection mark; and

(3) *Mislabeling.* The use of any words, numerals, letters, or facsimile from which simulates in whole or in part any identification purporting to be a grade when such product does not comply with any recognized standards in general use for such grade, and such activity may be deemed sufficient cause for debarring such person from any or all benefits of the Act.

(4) *Willful violation of the regulations in this subpart.* Willful violation of the provisions in this part or the Act, or the instructions or specifications issued thereunder.

(5) *Interfering with an inspector or grader.* Any interference with or obstruction or any attempted interference or obstruction of any inspector or grader in the performance of his duties by intimidation, threat, bribery, assault, or other improper means.

(60 Stat. 1087, 7 U.S.C. 1621 et seq.; 84 Stat. 1620, 21 U.S.C. 1031 et seq.)

[37 FR 22363, Oct. 19, 1972. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981.

MISCELLANEOUS

§ 58.61 Political activity.

All inspectors or graders are forbidden during the period of their respective appointments or licenses to take an active part in political management or in political campaigns. Political activities in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including, but not being limited to, temporary and cooperative employees and employees on leave of absence with or without pay. Willful violation of this section will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

§ 58.62 Report of violations.

Each inspector, grader, and supervisor of packaging shall report, in the manner prescribed by the Administrator, all violations and noncompliances under the Act and this part of which such inspector, grader, or supervisor of packaging has knowledge.

§ 58.63 Other applicable regulations.

Compliance with the provisions in this part shall not excuse failure to comply with any other Federal, or any State, or municipal applicable laws or regulations.

§ 58.64 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The following control number has been assigned to the information collection requirements in 7 CFR Part 58, Subpart A, by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511.

7 CFR section where requirements are described	Current OMB control No.
58.8(a)(b)	0581-0126
58.9	0581-0126
58.14	0581-0126
58.23	0581-0126
58.30	0581-0126
58.33	0581-0126
58.49	0581-0126
58.50(d)(e)	0581-0126
58.51	0581-0126
58.122(b)	0581-0126

[49 FR 6881, Feb. 24, 1984]

Subpart B—General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service[1]

SOURCE: 40 FR 47911, Oct. 10, 1975, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981.

DEFINITIONS

§ 58.100 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The following control number has been assigned to the information collection requirements in 7 CFR Part 58, Subpart B, by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511.

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[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, Environmental Protection Act, or applicable laws and regulations of any State or Municipality.

7 CFR section where requirements are described	Current OMB control No.
58.139	0581-0110
58.148	0581-0110
58.322(g)	0581-0110
58.441	0581-0110

[49 FR 6881, Feb. 24, 1984]

§ 58.101 Meaning of words.

For the purpose of the regulations of this subpart, words in the singular form shall be deemed to impart the plural and vice versa, as the case may demand. Unless the context otherwise requires, the following terms shall have the following meaning:

(a) *Act.* The applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; (7 U.S.C. 1621-1627)), or any other Act of Congress conferring like authority.

(b) *Administrator.* The Administrator of the Agricultural Marketing Service or any other officer or employee of the Agricultural Marketing Service of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated the authority to act in his stead.

(c) *Approved laboratory.* A laboratory in which the facilities and equipment used for official testing have been approved by the Administrator as being adequate to perform the necessary official tests in accordance with this part, and operates under a USDA surveillance program as set forth by the Administrator.

(d) *Approved plant.* One or more adjacent buildings, or parts thereof, comprising a single plant at one location in which the facilities and methods of operation therein have been surveyed and approved by the Administrator as suitable and adequate for inspection or grading service in accordance with the following:

(1) Shall satisfactorily meet the specifications of this subpart as determined by the Administrator.

(2) Receive dairy products only from plants, transfer stations, receiving stations and cream buying stations which satisfactorily comply with the applicable requirements of this subpart as determined by the Administrator. (Occasional shipments may be received from nonapproved plants provided the product is tested and meets the quality requirements for No. 2 milk.)

(e) *Sanitizing treatment.* Subjection of a clean product contact surface to steam, hot water, hot air, or an acceptable sanitizing solution of sufficient strength, and for a duration of time to effectively destroy microorganisms. Sanitizing solutions shall comply with 21 CFR 121.2547.[1]

(f) *Resident service.* Inspection or grading service performed at a dairy manufacturing plant or grading station by an inspector or grader assigned to the plant or station on a continuous basis.

(g) *Dairy products.* Butter, cheese (whether natural or processed), skim milk, cream, whey or buttermilk (whether dry, evaporated, stabilized or condensed), frozen desserts and any other food product which is prepared or manufactured in whole or in part from any of the aforesaid products, as the Administrator may hereafter designate.

(h) *Grader.* Any employee of the Department authorized by the Administrator or any other person to whom a license has been issued by the Administrator to investigate and certify, in accordance with the Act and this part, to shippers of products and other interested parties, the class, quality, quantity, and condition of such products.

(i) *Inspector.* Any employee of the Department authorized by the Administrator or any other person to whom a license has been issued by the Administrator to inspect and certify quality, quantity and condition of products, observe the manufacturing, processing, packaging and handling of dairy products, and to perform dairy plant surveys in accordance with the regulations of this part.

(j) *Inspection or grading service.* Means in accordance with this part, the act of (1) drawing samples of any product; (2) determining the class, grade, quality, composition, size, quantity, condition, or wholesomeness of any product by examining each unit or representative samples; (3) determining condition of product containers; (4) identifying any product or packaging material by means of official identification; (5) regrading or appeal grading of a previously graded product; (6) inspecting dairy plant facilities, equipment, and operations; such as, processing, manufacturing, packaging, repackaging, and quality control; (7) supervision of packaging inspected or graded product; (8) reinspection or appeal inspection; and (9) issuing an inspection or grading certificate or sampling, inspection, or other report related to any of the foregoing.

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[1] Section 121.2547 of Title 21 was redesignated as § 178.1010 at 42 FR 14305, Mar. 15, 1977.

(k) *Milk.* The term "milk" shall include the following:

(1) Milk is the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. The cows shall be located in a Modified Accredited Area, an Accredited Free State, or an Accredited Free Herd for tuberculosis as determined by the Department. In addition, the cows shall be located in States meeting Class B status or Certified-Free Herds or shall be involved in a milk ring testing program or blood testing program under the current USDA Brucellosis Eradication Uniform Methods and Rules.

(2) Goat milk is the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy goats. The goats shall be located in States meeting the current USDA Uniform Methods and Rules for Bovine Tuberculosis Eradication or an Accredited Free Goat Herd. Goat milk shall only be used to manufacture dairy products that are legally provided for in 21 CFR or recognized as non-standardized traditional products normally manufactured from goats milk.

(l) *Official identification.* Official identification is provided for use on product packed under USDA inspection. Any package label or packaging material which bears any official identification shall be used only in such manner as the Administrator may prescribe, and such official identification shall be of such form and contain such information as the Administrator may require.

(m) *Official methods.* Official Methods of Analysis of the Association of Official Analytical Chemists, a publication of the Association of Official Analytical Chemists, Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

(n) *Pasteurization* (*Pasteurized*). Pasteurization shall mean that every particle of product shall have been heated in properly operated equipment to one of the temperatures specified in the table and held continuously at or above that temperature for at least the specified time (or other time/temperature relationship equivalent thereto in microbial destruction):

Fluid Products

Temperature	Time
145° F (vat pasteurization)	30 minutes.
161° F (high temperature short time pasteurization).	15 seconds.
191° F (higher heat shorter time pasteurization).	1.0 second.
194° F (higher heat shorter time pasteurization).	0.5 second.
201° F (higher heat shorter time pasteurization).	0.1 second.
204° F (higher heat shorter time pasteurization).	.05 second.
212° F (higher heat shorter time pasteurization).	.01 second.

Products Having Dairy Ingredients With a Fat Content of 10 Percent or More, or Contain Added Sweeteners

150° F	30 minutes.
166° F	15 seconds.

Frozen Dessert Mix

155° F	30 minutes.
175° F	25 seconds.

Condensed Milk To Be Repasteurized

166° F	15 seconds.

(o) *Plant survey.* An appraisal of a plant to determine the extent to which facilities, equipment, method of operation, and raw material being received are in accordance with the provisions of this part. The survey shall be used to determine suitability of the plant for USDA inspection or grading service.

(p) *Plant status.* The extent to which a plant complies with this subpart shall be determined under procedures as set forth by the Administrator.

(q) *Producer.* The person or persons who exercise control over the production of the milk delivered to a processing plant or receiving station and who receive payment for this product.

(r) *Quality control.* The inspection of the quality of the raw material and the conditions relative to the preparation of the product from its raw state through each step in the entire process. It includes the inspection of conditions under which the product is prepared, processed, manufactured, packed and stored. In addition, assistance and guidance is offered to improve the raw milk quality, processing methods, quality, stability, and packaging and handling of the finished product.

(s) *Regulations.* The term "regulations" means the provisions contained in this part.

(t) *Shall.* Expresses a provision that is mandatory.

(u) *Should.* Expresses recommended nonmandatory provisions which when followed would significantly aid in a quality improvement program.

(v) *Standard methods.* Standard Methods for the Examination of Dairy Products, a publication of the American Public Health Association, 1790 Broadway, New York, New York.

(w) *3-A Sanitary Standards and Accepted Practice.* The latest standards for dairy equipment and accepted practices formulated by the 3-A Sanitary Standards Committees representing the International Association of Milk, Food and Environmental Sanitarians, the Food and Drug Administration and the Dairy Industry Committee. Published by the International Association of Milk, Food and Environmental Sanitarians, Box 701, Ames, Iowa.

(x) *"USDA" or "Department".* Means the United States Department of Agriculture.

(y) *Receiving Station.* Any place, premise, or establishment where milk or dairy products are received, collected or handled for transfer to a processing or manufacturing plant.

(z) *Transfer station.* Any place, premise, or establishment where milk or dairy products are transferred directly from one transport tank to another.

(aa) *Corrosion-resistant.* Those materials that maintain their original surface characteristics under prolonged influence of the product to be contacted, cleaning compounds and sanitizing solutions, and other conditions of the environment in which used.

[40 FR 47911, Oct. 10, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 50 FR 34672, Aug. 27, 1985]

EFFECTIVE DATE NOTE: At 50 FR 34672, Aug. 27, 1985, § 58.101 was amended by revising paragraph (k), effective July 1, 1986. For the convenience of the reader, the text remaining in effect until July 1, 1986 is set forth below:

§ 58.101 Meaning of words.

* * * * *

(k) *Milk.* The whole lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows located in modified accredited areas and modified certified areas or from cows in herds fully accredited as tuberculosis-free and certified brucellosis-free by the United States Department of Agriculture or in the process of being accredited.

* * * * *

PURPOSE

§ 58.122 Approved plants under USDA inspection and grading service.

(a) Adoption of certain sound practices at dairy plants will significantly aid the operators to manufacture more consistently, uniform high-quality stable dairy products. Only dairy products manufactured, processed and packaged in an approved plant may be graded or inspected and identified with official identification. The specifications established herein provide the basis for a quality maintenance program which may be effectively carried forward through official inspection, grading, and quality control service.

(b) USDA inspection and grading service is provided to dairy product manufacturing plants on a voluntary basis. The operator of any dairy plant desiring to have such a plant qualified as an approved plant under USDA inspection and grading service may request surveys of such plant, premises, equipment, facilities, methods of operation, and raw material to determine whether they are adequate to permit inspection and grading service. The cost of this survey shall be borne by the applicant.

APPROVED PLANTS

§ 58.123 Survey and approval.

Prior to the approval of a plant, a designated representative of the Administrator shall make a survey of the plant, premises, storage facilities, equipment and raw material, volume of raw material processed daily, and facilities for handling the products at the plant. The survey shall be made at least twice a year to determine whether the facilities, equipment, method of operation, and raw material being received are adequate and suitable for USDA inspection and grading service in accordance with the provisions of this part. To be eligible for approval a plant shall satisfactorily meet the specifications of this subpart as determined by the Administrator.

§ 58.124 Denial or suspension of plant approval.

Plant approval may be denied or suspended if a determination is made by a designated representative of the Administrator that the plant is not performing satisfactorily in regard to; (a) the classification of milk, (b) proper segregation and disposal of unwholesome raw materials or finished product, (c) adequate facilities and condition of processing equipment, (d) sanitary conditions of plant and equipment, (e) control of insects, rodents and other vermin, (f) use of non-toxic product contact surfaces and prevention of adulteration of raw materials and products with chemicals or other foreign material, (g) proper operating procedures, (h) the maintenance of legal composition of finished products, (i) the manufacture of stable dairy products, of desirable keeping quality characteristics, (j) proper storage conditions for ingredients and dairy products, or (k) suitable and effective packaging methods and material.

PREMISES, BUILDINGS, FACILITIES, EQUIPMENT AND UTENSILS

§ 58.125 Premises.

(a) The premises shall be kept in a clean and orderly condition, and shall be free from strong or foul odors, smoke, or excessive air pollution. Construction and maintenance of driveways and adjacent plant traffic areas should be of cement, asphalt, or similar material to keep dust and mud to a minimum.

(b) *Surroundings.* The immediate surroundings shall be free from refuse, rubbish, overgrown vegetation, and waste materials to prevent harborage of rodents, insects and other vermin.

(c) *Drainage.* A suitable drainage system shall be provided which will allow rapid drainage of all water from plant buildings and driveways, including surface water around the plant and on the premises, and all such water shall be disposed of in such a manner as to prevent an environmental or health hazard.

§ 58.126 Buildings.

The building or buildings shall be of sound construction and shall be kept in good repair to prevent the entrance or harboring of rodents, birds, insects, vermin, dogs, and cats. All service pipe openings through outside walls shall be effectively sealed around the opening or provided with tight metal collars.

(a) *Outside doors, windows, openings, etc.* All openings to the outer air including doors, windows, skylights and transoms shall be effectively protected or screened against the entrance of flies and other insects, rodents, birds, dust and dirt. All outside doors opening into processing rooms shall be in good condition and fit properly. All hinged, outside screen doors shall open outward. All doors and windows should be kept clean and in good repair. Outside conveyor openings and other special-type outside openings shall be effectively protected to prevent the entrance of flies and rodents, by the use of doors, screens, flaps, fans or tunnels. Outside openings for sanitary pipelines shall be covered when not in use. On new construction window sills should be slanted downward at approximately a 45° angle.

(b) *Walls, ceilings, partitions and posts.* The walls, ceilings, partitions, and posts of rooms in which milk, or dairy products are processed, manufactured, handled, packaged or stored (except dry storage of packaged finished products and supplies) or in which utensils are washed and stored, shall be smoothly finished with a suitable material of light color, which is substantially impervious to moisture and kept clean. They shall be refinished as often as necessary to maintain a neat, clean surface. For easier cleaning new construction should have rounded cove at the juncture of the wall and floor in all receiving, pasteurizing, manufacturing, packaging and storage rooms.

(c) *Floors.* The floors of all rooms in which milk, or dairy products are processed, manufactured, packaged or stored or in which utensils are washed shall be constructed of tile properly laid with impervious joint material, concrete, or other equally impervious material. The floors shall be smooth, kept in good repair, graded so that there will be no pools of standing water or milk products after flushing, and all openings to the drains shall be equipped with traps properly constructed and kept in good repair. On new construction, bell and standpipe type traps shall not be used. The plumbing shall be so installed as to prevent the back-up of sewage into the drain lines and to the floor of the plant. Cold storage rooms used for storage of product and starter rooms need not be provided with floor drains if the floor is sloped to drain to an exit.

Sound, smooth, wood floors which can be kept clean, may be used in rooms where new containers and supplies and certain packaged finished products are stored.

(d) *Lighting and ventilation.* (1) Light shall be ample, natural or artificial, or both, of good quality and well distributed. All rooms in which dairy products are manufactured or packaged or where utensils are washed shall have at least 30 foot-candles of light intensity on all working surfaces. Rooms where dairy products are graded or examined for condition and quality shall have at least 50 foot-candles of light intensity on the working surface. Restrooms and locker rooms should have at least 30 foot-candles of light intensity. In all other rooms there shall be provided at least 5 foot-candles of light intensity when measured at a distance of 30 inches from the floor. Where contamination of product by broken glass is possible, light bulbs and fluorescent tubes shall be protected against breakage.

(2) There shall be adequate heating, ventilation or air conditioning for all rooms and compartments to permit maintenance of sanitary conditions. Exhaust or inlet fans, vents, hoods or temperature and humidity control equipment shall be provided where and when needed, to minimize or control room temperatures, eliminate objectionable odors, and aid in prevention of moisture condensation and mold. Inlet fans should be provided with an adequate air filtering device to eliminate dirt and dust from the incoming air. Ventilation systems shall be cleaned periodically as needed and maintained in good repair. Exhaust outlets shall be screened or provided with self closing louvers to prevent the entrance of insects when not in use.

(e) *Rooms and compartments.* Rooms and compartments in which any raw material, packaging, ingredient supplies or dairy products are handled, manufactured, packaged or stored shall be so designed, constructed and maintained as to assure desirable room temperatures and clean and orderly operating conditions free from objectionable odors and vapors. Enclosed bulk milk receiving rooms, when present, shall be separated from the processing rooms by a wall. Rooms for receiving can milk shall be separated from the processing rooms by a partition or by suitable arrangement of equipment. Processing rooms shall be kept free from equipment and materials not regularly used.

(1) *Coolers and freezers.* Coolers and freezers where dairy products are stored shall be clean, reasonably dry and maintained at the proper uniform temperature and humidity to adequately protect the product, and minimize the growth of mold. Adequate circulation of air shall be maintained at all times. They shall be free from rodents, insects, and pests. Shelves shall be kept clean and dry. Refrigeration units shall have provisions for collecting and disposing of condensate.

(2) *Supply room.* The supply rooms or areas used for the storing of packaging materials; containers, and miscellaneous ingredients shall be kept clean, dry, orderly, free from insects, rodents, and mold, and maintained in good repair. Such items stored therein shall be adequately protected from dust, dirt, or other extraneous material and so arranged on racks, shelves or pallets to permit access to the supplies and cleaning and inspection of the room. Insecticides, rodenticides, cleaning compounds and other nonfood products shall be properly labeled and segregated, and stored in a separate room or cabinet away from milk, dairy products, ingredients or packaging supplies.

(3) *Boiler rooms, shop rooms and shop areas.* The boiler, and shop rooms shall be separated from other rooms where milk, and dairy products are processed, manufactured, packaged, handled or stored. Shop rooms or areas should be kept orderly and reasonably free from dust and dirt.

(4) *Toilet and dressing rooms.* Adequate toilet and dressing room facilities shall be conveniently located.

(i) Toilet rooms shall not open directly into any room in which milk or dairy products are processed, manufactured, packaged or stored; doors shall be self-closing; ventilation shall be provided by mechanical means to the outer air; fixtures shall be kept clean and in good repair.

(ii) All employees shall be furnished with a locker or other suitable facility and the lockers and dressing rooms shall be kept clean and orderly. Adequate handwashing facilities shall be provided. Legible signs shall be posted conspicuously in each toilet or dressing room directing employees to wash their hands before returning to work.

(5) *Laboratory.* (i) Consistent with the size and type of plant and the volume of dairy products manufactured, an adequately equipped laboratory shall be maintained and properly staffed with qualified and trained personnel for quality control and analytical testing. The laboratory should be located reasonably close to the processing activity and be of sufficient size to perform tests necessary in evaluating the quality of raw and finished products.

(ii) Approved laboratories shall be supervised by the USDA resident inspector in all aspects of official testing and reporting results. Plant laboratory personnel in such plants may be licensed by the USDA to perform official duties.

(iii) An approved central control laboratory serving more than one plant may be acceptable, if conveniently located to the dairy plants, and if samples and results can be transmitted without undue delay.

(6) *Starter facilities.* Adequate facilities shall be provided for the handling of starter cultures. The facilities shall not be located near areas where contamination is likely to occur.

(7) *Grading and inspection room.* When grading or inspection of product is performed the plants shall furnish a room or designated area specifically for this purpose. The room or area shall be suitably located, sufficient in size, well lighted (see § 58.126d), ventilated and the temperature shall be not less than 60° F. It shall be kept clean and dry, free from foreign odors and reasonably free from disturbing elements which would interfere with proper concentration by the grader or inspector. The grading or inspection room or area shall be equipped with a table or desk and convenient facilities for washing hands.

(8) *Resident inspector's facilities.* In resident plants, an office or space shall be provided for official purposes. The room or space should be conveniently located in or near the approved laboratory, adequate in size, and equipped with desk and a lockable storage supply cabinet, and clothes

locker. It shall be well lighted, ventilated or air conditioned, and heated. Custodial service shall be furnished on a regular basis.

(9) *Lunch rooms and eating areas.* When these areas are provided, they (i) shall be kept clean and orderly, (ii) should not open directly into any room in which milk or dairy products are processed, manufactured or packaged, and (iii) signs shall be posted directing employees to wash their hands before returning to work.

§ 58.127 Facilities.

(a) *Water supply.* There shall be an ample supply of both hot and cold water of safe and sanitary quality, with adequate facilities for its proper distribution throughout the plant, and protected against contamination. Water from other facilities, when officially approved, may be used for boiler feed water and condenser water provided that such water lines are completely separated from the water lines carrying the sanitary water supply, and the equipment is so constructed and controlled as to preclude contamination of product contact surfaces. There shall be no cross connection between potable water lines and non-potable water lines or between public and private water supplies. Bacteriological examinations shall be made of the plant's sanitary water supply taken at the plant at least twice a year, or as often as necessary to determine safety and suitability as related to product keeping quality for use in manufactured products shall be made by a USDA or State agency laboratory except for supplies that are regularly tested for purity and bacteriological quality, and approved by the local health officer. The results of all water tests shall be kept on file at the plant for which the test was performed.

The location, construction, and operation of any well shall comply with regulations of the appropriate agency.

(b) *Drinking-water facilities.* Drinking-water facilities of a sanitary type shall be provided in the plant and should be conveniently located.

(c) *Hand-washing facilities.* Convenient hand-washing facilities shall be provided, including hot and cold running water, soap or other detergents, and sanitary single service towels or air driers. Such accommodations shall be located in or adjacent to toilet and dressing rooms and also at such other places in the plant as may be essential to the cleanliness of all personnel handling products. Vats for washing equipment or utensils shall not be used as hand-washing facilities. Containers shall be provided for used towels and other wastes. The containers may be metal or plastic, disposable or reuseable and should have self-closing covers.

(d) *Steam.* Steam shall be supplied in sufficient volume and pressure for satisfactory operation of each applicable piece of equipment. Culinary steam used in direct contact with milk or dairy products shall be free from harmful substances or extraneous material and only those boiler water additives which meet the requirements of 21 CFR 121.1088 shall be used, or a secondary steam generator shall be used in which soft water is converted to steam and no boiler compounds are used. Steam traps, strainers and condensate traps shall be used wherever applicable to insure a satisfactory and safe steam supply. Culinary steam shall comply with the recommended practices for "Producing Culinary Steam for Processing Milk and Milk Products" as published by the National Association of Food and Dairy Equipment Manufacturers, Washington, D.C., April 1963 or latest revision thereof.

(e) *Air under pressure.* The method for supplying air under pressure, which comes in contact with milk or dairy products or any product contact surface shall comply with the 3-A Accepted Practices for Supplying Air Under Pressure.

(f) *Disposal of wastes.* Dairy wastes shall be properly disposed of from the plant and premises consistent with requirements imposed by the Environmental Protection Act. The sewer system shall have sufficient slope and capacity to readily remove all waste from the various processing operations. Where a public sewer is not available, all wastes shall be properly disposed of so as not to contaminate milk equipment or to create a nuisance or public health hazard. Containers used for the collection and holding of wastes shall be constructed of metal, plastic, or other equally impervious material and kept covered with tight fitting lids. Waste shall be stored in an area or room in a manner to protect it from flies and vermin. Solid wastes shall be disposed of regularly and the containers cleaned before reuse. Accumulation of dry waste paper and cardboard shall be kept to a minimum and disposed of in a manner that is environmentally acceptable.

§ 58.128 Equipment and utensils.

(a) *General construction, repair and installation.* The equipment and utensils used for the processing of milk and manufacture of dairy products shall be constructed to be readily demountable where necessary for cleaning and sanitizing. The product contact surfaces of all utensils and equipment such as holding tanks, pasteurizers, coolers, vats, agitators, pumps, sanitary piping and fittings or any specialized equipment shall be constructed of stainless steel, or other materials which under conditions of intended use are as equally corrosion resistant. Non-metallic parts other than glass having product contact surfaces shall comply with 3-A Sanitary Standards for Plastic or Rubber and Rubber-Like Materials. Equipment and utensils used for cleaning shall be in an acceptable condition, such as not rusty, pitted or corroded. All equipment and piping shall be designed and installed so as to be easily accessible for cleaning, and shall be kept in good repair, free from cracks and corroded surfaces. New or rearranged equipment, shall be set away from any wall or spaced in such a manner as to facilitate proper cleaning and to maintain good housekeeping. All parts or interior surfaces of equipment, pipes (except certain piping cleaned-in-place) or fittings, including valves and connections shall be accessible for inspection. Milk and dairy product pumps shall be of a sanitary type and easily dismantled for cleaning or shall be of specially approved construction to allow effective cleaning in place.

All C.I.P. systems shall comply with the 3-A Accepted Practices for Permanently Installed Sanitary Product, Pipelines and Cleaning Systems.

(b) *Weigh cans and receiving tanks.* Weigh cans and receiving tanks shall comply with the 3-A Sanitary Standards for Weigh Cans and Receiving Tanks for Raw Milk and shall be easily accessible for cleaning both inside and outside and shall be elevated above the floor and protected sufficiently with the necessary covers or baffles to prevent contamination from splash, condensate and drippage. Where necessary to provide easy access for cleaning of floors and adjacent wall areas, the receiving tank shall be equipped with wheels or casters to allow easy removal.

(c) *Can washers.* Can washers shall have sufficient capacity and ability to discharge a clean dry can and cover and shall be kept properly timed in accordance with the instructions of the manufacturer. They should be equipped with proper temperature controls on the wash and rinse tanks and the following additional devices: Prerinse jet, wash tank solution feeder, can sanitizing attachment, forced air vapor exhaust, and removable air filter on drying chamber. The water and steam lines supplying the washer shall maintain a reasonably uniform pressure and if necessary be equipped with pressure regulating valves. The steam pressure to the can washer should be not less than 80 pounds, and the temperature of the wash and final rinse solution should be automatically controlled and not exceed 140° F.

(d) *Product storage tanks or vats.* Storage tanks or vats shall be fully enclosed or tightly covered and well insulated. The entire interior surface, agitator and all appurtenances shall be accessible for thorough cleaning and inspection. Any opening at the top of the tank or vat including the entrance of the shaft shall be suitably protected against the entrance of dust, moisture, insects, oil or grease. The sight glasses, if used, shall be sound, clear, and in good repair. Vats which have hinged covers shall be easily cleaned and shall be so designed that moisture, or dust on the surface cannot enter the vat when the covers are raised. If the storage tanks or vats are equipped with air agitation, the system shall be of an approved type and properly installed in accordance with the 3-A Accepted Practices for Supplying Air Under Pressure. Storage tanks or vats intended to hold product for longer than approximately 8 hours shall be equipped with adequate refrigeration and/or have adequate insulation. New or replacement storage tanks or vats shall comply with the appropriate 3-A Sanitary Standards for Storage Tanks for Milk and Milk Products or Sanitary Standards for Silo-Type Storage Tanks for Milk and Milk Products and shall be equipped with thermometers in good operating order.

(e) *Separators.* All product contact surfaces of separators shall be free from rust and pits and insofar as practicable shall be of stainless steel or other equally noncorrosive metals.

(f) *Coil or dome type batch pasteurizers.* Coil or dome type batch pasteurizers shall be stainless steel lined and if the coil is not stainless steel or other equally noncorrosive metal it shall be properly tinned over the entire surface. Sanitary seal assemblies at the shaft ends of coil vats shall be of the removable type, except that existing equipment not provided with this type gland will be acceptable if the packing glands are maintained and operated without adverse effects. New or replacement units shall be provided with removable packing glands. Dome type pasteurizer agitators shall be stainless steel except that any non-metallic parts shall comply with 3-A Sanitary Standards for Plastic or Rubber and Rubberlike Materials, as applicable. Each pasteurizer used for heating product at a temperature of 5° F. or more above the minimum pasteurization temperature need not have the airspace heater. It shall be equipped with an airspace thermometer to insure a temperature at least 5° F. above that required for pasteurization of the product. There shall be adequate means of controlling the temperature of the heating medium. Batch pasteurizers shall have temperature indicating and recording devices.

(g) *Short time pasteurizing systems.* When pasteurization is intended or required, an approved timing pump or device, recorder-controller, automatic flow diversion valve and holding tube or its equivalent, if not a part of the existing equipment, shall be installed on all such equipment used for pasteurization, to assure complete pasteurization. The entire facility shall comply with the 3-A Accepted Practices for the Sanitary Construction, Installation, Testing and Operation of High Temperature Short Time Pasteurizers. After the unit has been tested according to the 3-A Accepted Practices, the timing pump or device and the recorder controller shall be sealed at the correct setting to assure pasteurization. The system should be rechecked semi-annually to assure continued compliance with the 3-A Accepted Practices. Sealing and rechecking of the unit shall be performed by the control authority having jurisdiction. When direct steam pasteurizers are used, the steam, prior to entering the product, shall be conducted through a steam strainer and a steam purifier equipped with a steam trap and only steam meeting the requirements for culinary steam shall be used.

(h) *Thermometers and recorders*—(1) *Indicating thermometers.* (i) Long stem indicating thermometers which are accurate within 0.5° F., plus or minus, for the applicable temperature range, shall be provided for checking the temperature of pasteurization and cooling of products in vats and checking the accuracy of recording thermometers.

(ii) Short stem indicating thermometers, which are accurate within 0.5° F., plus or minus, for the applicable temperature range, shall be installed in the proper stationary position in all pasteurizers. Storage tanks where temperature readings are required shall have thermometers which are accurate within 2.0° F., plus or minus.

(iii) Air space indicating thermometers, where applicable, which are accurate within 1.0° F., plus or minus, for the proper temperature range shall also be installed above the surface of the products pasteurized in vats, to make certain that the temperature of the foam and/or air above the products pasteurized also received the required minimum temperature treatment.

(2) *Recording thermometers.* (i) Recording thermometers that are accurate within 1° F., plus or minus, for the applicable temperature range, shall be used on each heat treating, pasteurizing or thermal processing unit to record the heating process.

(ii) Additional use of recording thermometers accurate within 2° F., plus or minus may be required where a record of temperature or time of cooling and holding is of significant importance.

(iii) Recorder charts shall be marked to show date and plant identification, reading of the indicating thermometer at a particular referenced reading point on the recording chart, amount and name of product, product temperature at which the "cut-in" and "cut-out" function, record of the period in which flow diversion valve is in forward-flow position, signature or initials of operator.

(i) *Surface coolers.* Surface coolers shall be equipped with hinged or removable covers for the protection of the product. The edges of the fins shall be so designed as to divert condensate on nonproduct contact surfaces away from product contact surfaces. All gaskets or swivel connections shall be leak proof.

(j) *Plate type heat exchangers.* Plate type heat exchanger shall comply with the 3-A Sanitary Standards Plate Type Heat Exchangers for Milk and Milk Products. All gaskets shall be tight and kept in good operating order. Plates shall be opened for inspection by the operator at sufficiently frequent intervals to determine if the equipment is clean and in satisfactory condition. A cleaning regimen should be posted to insure proper cleaning procedures between inspection periods.

(k) *Internal return tubular heat exchangers.* Internal return tubular heat exchangers shall comply with the 3-A Sanitary Standards for Internal Return Tubular Heat Exchangers for Use with Milk and Milk Products.

(l) *Pumps.* Pumps used for milk, and dairy products shall be of the sanitary type and constructed to comply with 3-A Sanitary Standards for Pumps for Milk and Milk Products. Unless pumps are specifically designed for effective cleaning-in-place they shall be disassembled and thoroughly cleaned after use.

(m) *Scales.* All scales shall comply with National Bureau of Standards Handbook 44. (Latest revision).

(1) Small capacity scales shall be capable of the following accuracy, and shall be graduated in no higher than one ounce graduations. (This table taken from the presently effective 1973 revision.)

	Minimum tolerance	
	Ounces	Pounds
Load in pounds:		
0 to 4 inclusive	1/32	0.002
5 to 10 inclusive	1/16	.004
11 to 20 inclusive	⅛	.008
21 to 30 inclusive	3/16	.012
31 to 50 inclusive	½	.031
51 to 500 inclusive	¾	.047

(2) Large capacity scales shall be capable of the following accuracy, and shall be graduated in no higher than ¼ pound graduations for scales of capacity of up to 250 pounds; ½ pound graduations for scales above 250 pounds capacity.

(This table taken from the presently effective 1973 revision.)

	Minimum tolerance	
	Ounces	Pounds
Load in pounds:		
101 to 150 inclusive	1¼	0.078
151 to 250 inclusive	2	.125
251 to 500 inclusive	4	.250
501 to 1000 inclusive	8	.500
1001 to 2500 inclusive		1.0

Compliance shall be determined by the appropriate regulatory authority.

(n) *Homogenizers.* Homogenizers and high pressure pumps of the plunger type shall comply with the 3-A Sanitary Standards for Homogenizers and Pumps of the Plunger Type and shall be disassembled and thoroughly cleaned after use.

(o) *New equipment and replacements.* New equipment and replacements, including all plastic parts and rubber and rubberlike materials for parts and gaskets having product contact surfaces, shall comply with the then current 3-A Sanitary Standards. If 3-A Sanitary Standards are not available, such equipment and replacements shall meet the general requirements of this section. Only material that is sanitary, readily cleanable and non-toxic shall be used for product contact surfaces, parts and gaskets.

(p) *Vacuumizing equipment.* The vacuum chamber, as used for flavor control, shall be made of stainless steel or other equally corrosion resistant metal. The unit shall be constructed to facilitate cleaning and all product contact surfaces shall be accessible for inspection. Vacuum chambers located on the pasteurized side of the unit shall be isolated by means of a vacuum breaker and a positive activated check valve on the product inlet side and a vacuum breaker and a positive activated check valve on the discharge side. If direct steam is used, it should also be equipped with a ratio controller to regulate the composition when applicable to the finished product. Only steam which meets the requirements for culinary steam shall be used. The incoming steam supply shall be regulated by an automatic solenoid valve which will cut off the steam supply in the event the flow diversion valve of the pasteurizer is not in the forward flow position. Condensers when used shall be equipped with a water level control and an automatic safety shutoff valve.

PERSONNEL, CLEANLINESS AND HEALTH

§ 58.129 Cleanliness.

All employees shall wash their hands before beginning work and upon returning to work after using toilet facilities, eating, smoking or otherwise soiling their hands. They shall keep their hands clean and follow good hygienic practices while on duty. Expectorating or use of tobacco in any form shall be prohibited in each room and compartment where any milk, dairy products, or supplies are prepared, stored or otherwise handled. Clean white or light-colored washable or disposable outer garments and caps (paper caps, hard hats, or hair nets acceptable) shall be worn to adequately protect the hair and beards when grown by all persons engaged in receiving, testing, processing milk, manufacturing, packaging or handling dairy products.

§ 58.130 Health.

No person afflicted with a communicable disease shall be permitted in any room or compartment where milk and dairy products are prepared, manufactured or otherwise handled. No person who has a discharging or infected wound, sore or lesion on hands, arms or other exposed portion of the body shall work in any dairy processing rooms or in any capacity resulting in contact with milk, or dairy products. Each employee whose work brings him in contact with the processing or handling of dairy products, containers or equipment should have a medical and physical examination by a registered physician or by the local department of health at the time of employment. An employee returning to work following illness from a communicable disease shall have a certificate from the attending physician to establish proof of complete recovery.

PROTECTION AND TRANSPORT OF RAW MILK AND CREAM

§ 58.131 Equipment and facilities.

(a)(1) *Milk cans.* Cans used in transporting milk from dairy farm to plant shall be of such construction (preferably seamless with umbrella lids) as to be easily cleaned, and shall be inspected, repaired, and replaced as necessary to exclude substantially the use of cans and lids with open seams, cracks, rust, milkstone, or any unsanitary condition. Adequate provisions should be made so that milk in cans will be cooled immediately after milking to 50° F. or lower unless delivered to the plant within two hours after milking.

(2) *Farm bulk tanks.* Farm bulk tanks shall comply with 3-A Sanitary Farm Cooling and Holding Tanks or 3-A Sanitary Standards for Farm Cooling and Holding Tanks or 3-A Sanitary Standards for Farm Milk Storage Tanks as applicable. They shall be installed in a milk house in accordance with the requirements of the regulatory agency in jurisdiction. The bulk cooling tanks shall be designed and equipped with refrigeration to permit

the cooling of the milk to 40° F. or lower within two hours after milking, and maintain it at 45° F. or below until picked up.

(b)(1) *Receiving stations.* Receiving stations shall comply with the applicable sections of this subpart covering premises, buildings, facilities, equipment, utensils, personnel, cleanliness and health.

(2) *Transfer stations.* Transfer stations shall comply with the applicable sections of this subpart covering premises, floors, lighting, water supply, hand-washing facilities, disposal of wastes, general construction, repair and installation of equipment, piping and utensils and personnel—cleanliness and health. As climatic and operating conditions require the transfer station shall comply with the applicable sections for walls, ceilings, doors and windows.

(3) *Cream stations.* Cream stations shall provide adequate protection and facilities for the handling, transferring and cooling of farm separated cream. The area shall be large enough to avoid undue crowding with a normal volume of business and shall be separated from other areas and the outside by self closing, tight fitting doors. All openings shall be screened during fly season. The floor, walls and ceiling shall be of satisfactory construction, in good repair and kept clean. Lighting and ventilation shall meet the requirements of § 58.126(d). Cooling facilities shall be provided to cool the cream to 50° F. or lower unless shipped within 8 hours after receipt. Facilities shall be provided to wash, sanitize and store cans and equipment used in the operation. The cream should not be more than 4 days old when picked up for delivery to the processing plant.

(c)(1) *Transporting milk or cream.* Vehicles used for the transportation of can milk or cream shall be of the enclosed type, constructed and operated to protect the product from extreme temperature, dust, or other adverse conditions and they shall be kept clean. Decking boards or racks shall be provided where more than one tier of cans is carried. Cans or vehicles used for the transportation of milk from the farm to the plant shall not be used for transporting skim milk, buttermilk, or whey to producers.

(2) *Transport tanks.* The exterior shell shall be clean and free from open seams or cracks which would permit liquid to enter the jacket. The interior shell shall be stainless steel and so constructed that it will not buckle, sag or prevent complete drainage. All product contact surfaces shall be smooth, easily cleaned and maintained in good repair. The pump and hose cabinet shall be fully enclosed with tight fitting doors and the inlet and outlet shall be provided with dust covers to give adequate protection from road dust. Tank manholes should be equipped with an adequate filtering system during loading and unloading. New and replacement transport tanks shall comply with 3-A Sanitary Standards for Stainless Steel Automotive Milk and Milk Products Transportation Tanks for Bulk Delivery and/or Farm Pick-up Service.

(3) *Facilities for cleaning and sanitizing.* Enclosed or covered facilities (as climatic conditions require) shall be available for washing and sanitizing of transport tanks, piping, and accessories, at central locations or at all plants that receive or ship milk or milk products in transport tanks.

(d) *Transfer of milk to transport tank.* Milk shall be transferred under sanitary conditions from farm bulk tanks through stainless steel piping or approved tubing. The sanitary piping and tubing shall be capped when not in use.

QUALITY SPECIFICATIONS FOR RAW MILK

§ 58.132 Basis for classification.

The quality classification of raw milk for manufacturing purposes from all individual producers shall be based on the following: Organoleptic examination (appearance and odor), quality control tests for sediment content, bacterial estimate, somatic cell count, and antibiotics. All milk received from producers shall not exceed the Food and Drug Administration's established limits for pesticide and herbicide residues. Producers shall be promptly notified of any shipment or portion thereof of their milk that fails to meet any of these quality specifications.

[50 FR 34672, Aug. 27, 1985]

Effective Date Note: At 50 FR 34672, Aug. 27, 1985, § 58.132 was revised, effective July 1, 1986. For the convenience of the user, the text remaining in effect until July 1, 1986, is set forth below:

§ 58.132 Basis for classification.

Raw milk for manufacturing purposes, from all individual producers, shall be based on the following: organoleptic examination (appearance and odor), quality control tests for sediment content, and bacterial estimate. In addition, milk from cows treated with antibiotics shall be excluded for such period of time as is necessary to have the milk free from antibiotics. All milk received from producers shall not exceed Federal Food and Drug Administration's established limits for pesticide residues. Producers shall be promptly notified of any shipment or portion thereof of their milk that fails to meet any of these quality specifications.

§ 58.133 Methods for quality and wholesomeness determination.

(a) *Appearance and odor.* The appearance of acceptable raw milk shall be normal and free of excessive coarse sediment when examined visually or by an acceptable test procedure. The milk shall not show any abnormal condition (including, but not limited to, curdled, ropy, bloody or mastitic condition), as indicated by sight or other test procedures. The odor shall be fresh and sweet. The milk shall be free from objectionable feed and other off-odors that adversely affect the finished product.

(b) *Abnormal milk.* (1) A laboratory examination for the presence of somatic cells shall be made on all patrons' milk at least 4 times in each 6-month period at irregular intervals.

(2) A confirmatory test for somatic cells shall be done when a herd milk sample exceeds any of the following screening test results:

(i) California Mastitis Test—Weak Positive (CMT 1+).

(ii) Wisconsin Mastitis Test—WMT value of 19 mm.

(3) The confirmatory test for somatic cells shall be performed by using one of the following procedures:

(i) Direct Microscopic Somatic Cell Count (Single Strip Procedure). Pyronin Y-methyl green stain shall be used for goat milk.

(ii) Electronic Somatic Cell Count.

(iii) Optical Somatic Cell Count.

(4) The results of the confirmatory test for somatic cells shall be the official result.

(5) Whenever the confirmatory somatic cell count indicates the presence of more than 1,000,000 somatic cells per ml., the following procedures shall be applied:

(i) The producer shall be notified with a warning of the excessive somatic cell count.

(ii) Whenever two of the last four consecutive somatic cell counts exceed 1,000,000 per ml., the appropriate state regulatory authority shall be notified and a written notice given to the producer. This notice shall be in effect as long as two of the last four consecutive samples exceed 1,000,000 per ml.

(6) An additional milk sample shall be taken after a lapse of 3 days but within 21 days of the notice required in paragraph (b)(5)(ii) of this section. If this sample also indicates a high somatic cell count, the patron's milk shall be rejected until satisfactory compliance is obtained. A temporary status may be approved by the appropriate state regulatory agency whenever an additional sample of herd milk is tested and found satisfactory. The producer may be fully reinstated when three out of four consecutive tests have counts of 1,000,000 or less somatic cells per ml. The samples shall be taken at a rate of not more than two per week on separate days within a 3-week period.

(c) *Antibiotics.* At least 4 times in 6 months, at irregular intervals, each producer's milk or commingled sample representing all producers shall be tested for antibiotic residues using an officially recognized test procedure. All individual samples shall be tested when the commingled sample is positive. When an individual producer shows a positive test, the milk shall be immediately rejected from all markets and shall not be accepted until a subsequent test is negative.

[50 FR 34672, Aug. 27, 1985]

Effective Date Note: At 50 FR 34672, Aug. 27, 1985, § 58.133 was revised, effective

July 1, 1986. For the convenience of the user, the text remaining in effect until July 1, 1986 is set forth below:

§ 58.133 Methods for quality and wholesomeness determination.

(a) *Appearance and odor.* The appearance and odor of acceptable raw milk shall be normal, fresh and sweet. The milk shall be free from objectionable feed and other off-odors that would adversely affect the finished product, and it shall not show any abnormal condition (including, but not limited to curdled, ropy, bloody, or mastitic condition), as indicated by sight, odor, or other test procedures.

(b) *Abnormal milk.* (1) A laboratory examination for the presence of unwholesome mammary secretions—whether of an inflammatory, infectious, physiological, or environmental origin—shall be made on all patrons milk at least 4 times in each 6 month period at irregular intervals.

(2) When a herd milk sample exceeds any of the following screening test results:

(i) California Mastitis Test—Weak Positive (CMT 1+).

(ii) Modified Whiteside Test—Positive (1+).

(iii) Wisconsin Mastitis Test—WMT Value of 21mm or as an alternative, each laboratory will establish its own WMT score above which confirmatory testing will be done.

A somatic cell count using the Direct Microscopic Count Method or equivalent, or the Electronic Method shall be made on that sample and the results of the somatic cell direct count shall be the official result.

(3) Whenever the somatic cell count indicates the presence of more than 1,500,000 somatic cells per ml., the following procedures shall be applied:

(i) A notice shall be sent to the producer warning him of the excessive somatic cell count.

(ii) Whenever two of the last four consecutive somatic cell counts exceed 1,500,000 cells per ml. the appropriate regulatory authority shall be notified and a written notice given to the producer. This notice shall be in effect so long as two of the last four consecutive samples exceed 1,500,000 cells per ml. In addition to the written notice an inspection shall be made of the farm facility.

(4) A third milk sample shall be taken after a lapse of 3 days and within 14 days of the inspection required under paragraph (b)(2) of this section. If this sample also indicates a high somatic cell count, the patron's milk shall be rejected until satisfactory compliance is obtained.

(c) *Antibiotics.* At least 4 times in 6 months, at irregular intervals, a separate or commingled sample of each producer's milk shall be tested for antibiotic residues. When a producer's milk shows a positive test the milk shall be immediately rejected from all markets and shall not be accepted until a subsequent test is negative.

§ 58.134 Sediment content.

(a) *Method of testing.* Methods for determining the sediment content of the milk of individual producers shall be those described in the latest edition of Standard Methods for the Examination of Dairy Products. Sediment content shall be based on comparison with applicable charts of the United States Sediment Standards for Milk and Milk Products, Subpart T, § 58.2728 through 58.2732, of this part.

(b) *Sediment content classification.* Milk shall be classified for sediment content, regardless of the results of the appearance and odor examination required in § 58.133(a), as follows:

USDA SEDIMENT STANDARD

No. 1 (acceptable)—not to exceed 0.50 mg. or equivalent.

No. 2 (acceptable)—not to exceed 1.50 mg. or equivalent.

No. 3 (probational, not over 10 days)—not to exceed 2.50 mg. or equivalent.

No. 4 (reject)—over 2.50 mg. or equivalent.

(c) *Frequency of tests.* At least once each month, at irregular intervals, the milk from each producer shall be tested as follows:

(1) *Milk in cans.* One or more cans of milk selected at random from each producer.

(2) *Milk in farm bulk tanks.* A sample shall be taken from each farm bulk tank.

(d) *Acceptance or rejection of milk.* If the sediment disc is classified as No. 1, No. 2, or No. 3 the producer's milk may be accepted. If the sediment disc is classified No. 4 the milk shall be rejected: *Provided that,* If the shipment of milk is commingled with other milk in a transport tank the next shipment shall not be accepted until its quality has been determined before being picked up; however, if the person making the test is unable to get to the farm before the next shipment it may be accepted but no further shipments shall be accepted unless the milk meets the requirements of No. 3 or better. In the case of milk classified as No. 3 or No. 4, if in cans, all cans shall be tested. Producers of No. 3 or No. 4 milk (cans or bulk) shall be notified immediately and shall be furnished applicable sediment discs and the next shipment shall be tested.

(e) *Retests.* On test of the next shipment (if in cans, all cans shall be tested) milk classified as No. 1, No. 2, or No. 3 may be accepted, but No. 4 milk shall be rejected. Retests of bulk milk classified as No. 4 shall be made before pickup. The producers of No. 3 or No. 4 milk shall be notified immediately, furnished applicable sediment discs and the next shipment tested.

This procedure of retesting successive shipments and accepting probational (No. 3) milk and rejecting No. 4 milk may be continued for not more than 10 calendar days. If at the end of this time all of the producer's milk does not meet the acceptable sediment content classification (No. 1 or No. 2), it shall be rejected.

[40 FR 47911, Oct. 10, 1975, Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 50 FR 34673, Aug. 27, 1985]

EFFECTIVE DATE NOTE: At 50 FR 34673, Aug. 27, 1985, § 58.134(a) and (b) were revised, effective July 1, 1986. For the convenience of the user, the text remaining in effect until July 1, 1986 is set forth below:

§ 58.134 Sediment content.

(a) *Method of testing.* Methods for determining sediment content of milk shall be those described in the latest edition of Standard Methods for the Examination of Dairy Products. For the testing of milk in cans, the off-the-bottom method shall be used. For testing bulk milk, a mixed one-pint sample shall be tested. Sediment content shall be based on comparison with applicable charts of Sediment Standards described in Subpart T, §§ 58.2728 through 58.2731 of this part.

(b) *Sediment content classification of discs.* Milk in cans and in farm bulk tanks shall be classified for sediment content as follows:

(1) Sediment (off-the-bottom method): (1⅛ inch diameter disc).

No. 1—USDA Sediment Standard (not to exceed) 0.50 mg. (Acceptable).

No. 2—USDA Sediment Standard (not to exceed) 1.50 mg. (Acceptable).

No. 3—USDA Sediment Standard (not to exceed) 2.50 mg. (Probational) not over 10 days.

No. 4—USDA Sediment Standard (over 2.50 mg.) (Reject).

(2) Sediment (mixed sample): (0.40 inch diameter disc).

No. 1—USDA Sediment Standard (not to exceed) 0.0625 mg. (0.50 mg. equiv.) (Acceptable).

No. 2—USDA Sediment Standard (not to exceed) 0.1875 mg. (1.50 mg. equiv.) (Acceptable).

No. 3—USDA Sediment Standard (not to exceed) 0.3125 mg. (2.50 mg. equiv.) (Probational) not over 10 days.

No. 4—USDA Sediment Standard (over) 0.3125 mg. (2.50 mg. equiv.) (Reject).

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§ 58.135 Bacterial estimate.

(a) *Method of testing.* Methods for determining the bacterial estimate of the milk of individual producers shall be those described in the latest edition of Standard Methods for the Examination of Dairy Products.

(b) *Bacterial estimate classification.* Milk shall be classified for bacterial estimate by one of the following methods:

Bacterial estimate classification	Direct Microscopic count, standard plate count or plate loop count
No. 1	Not over 500,000 per ml.
No. 2	Not over 1,000,000 per ml.
Undergrade	Over 1,000,000 per ml.

(c) *Frequency of tests.* At least once each month, at irregular intervals, a mixed sample of each producer's milk shall be tested.

(d) *Acceptance of milk.* If the sample of milk is classified as No. 1 or No. 2 the producer's milk may be accepted without qualification. If the sample is classified as "Undergrade" (probational) the producer's milk may be accepted for a temporary period of 4 weeks. The producer of "Undergrade" milk shall be notified immediately.

(e) *Retests.* Additional samples shall be tested and classified at least weekly and the producer notified immediately of the results. This procedure of testing at least weekly and accepting "Undergrade" *milk may be continued for* a time period not exceeding four weeks. If at the end of this time the producer's milk does not meet the acceptable bacterial estimate requirements (No. 1 or No. 2), it shall not be accepted.

[40 FR 47911, Oct. 10, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 50 FR 34673, Aug. 27, 1985]

EFFECTIVE DATE NOTE: At 50 FR 34673, Aug. 27, 1985, § 58.135(a) and (b) were revised, effective July 1, 1986. For the convenience of the user, the text remaining in effect until July 1, 1986 is set forth below:

§ 58.135 Bacterial estimate.

(a) *Method of testing.* Methods for determining the bacterial estimate of milk shall be those described in the latest edition of Standard Methods for the Examination of Dairy Products.

(b) *Bacterial estimate classification.* Milk shall be classified for bacterial estimate by one of the following methods:

Bacterial estimate classification	Direct microscopic count, standard plate count or plate loop count	Resazurin reduction time to Munsell color standard 5 P 7/4
No. 1:		
Can	Not over 500,000 per milliliter.	Not less than 2¼ hours.
Bulk	do	Not less than 3¼ hours.
No. 2:		
Can	Not over 3,000,000	Not less than 1½ hours.
Bulk	do	Not less than 2½ hours.
Undergrade:		
Can	Over 3,000,000	Less than 1½ hours.
Bulk	do	Less than 2½ hours.

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§ 58.136 Rejected milk.

A plant shall reject specific milk from a producer if it fails to meet the requirements for appearance and odor (§ 58.133(a)) or if it is classified No. 4 for sediment content (§ 58.134). Such milk shall be identified with a reject tag.

§ 58.137 Excluded milk.

A plant shall not accept milk from a producer for use in products:

(a) If a new producer's milk does not meet the requirements for appearance and odor (§ 58.133(a)) or sediment content (§ 58.134); or

(b) If the milk has been in a probational (No. 3) sediment content classification for more than ten calendar days (§ 58.134); or

(c) If the milk has been classified "Undergrade" for bacterial estimate for more than four successive weeks (§ 58.135), or

(d) If the milk has been classified as having a high somantic cell count (§ 58.133(b)(4)) or having a positive test for antibiotics (§ 58.133(c)).

§ 58.138 Quality testing of milk from new producers.

An examination shall be made on the first shipment of milk from producers shipping milk to a plant for the first time or after a period of nonshipment. The milk shall meet the requirements for "acceptable milk" (§§ 58.133, 58.134, and 58.135). Thereafter, the milk shall be tested in accordance with the procedure established for regular shippers.

§ 58.139 Record of tests.

Accurate records, listing the results of quality tests of each producer, shall be kept on file at the receiving plant where performed and shall be available for examination by the inspector.

(Approved by the Office of Management and Budget under OMB control number 0583-0047)[1]

[40 FR 47911, Oct. 10, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 745, Jan. 7, 1982]

§ 58.140 Field service.

A representative of the plant should arrange to promptly visit each producer shipping milk which does not meet the requirements for acceptable milk, for the purpose of inspecting the equipment, utensils and facilities at the farm and to offer constructive assistance for improvement in the quality of the milk. A representative of the plant should visit each producer as often as practicable to assist in and encourage the production of high quality milk.

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[1] EDITORIAL NOTE: See table appearing in § 58.100 for correct OMB control number.

§ 58.141 Alternate quality control program.

When a plant has in operation an acceptable quality program, at the producer level, which is approved by the Administrator as being effective in obtaining results comparable to or higher than the quality program as outlined above for milk or cream, then such a program may be accepted in lieu of the program herein prescribed.

OPERATIONS AND OPERATING PROCEDURES

§ 58.142 Product quality and stability.

The receiving, holding and processing of milk and cream and the manufacturing, handling, packaging, storing and delivery of dairy products shall be in accordance with clean and sanitary methods, consistent with good commercial practices to promote the production of the highest quality of finished product and improve product stability. Milk should not be more than three days old when picked up from the producer and delivered to the plant, receiving station or transfer station.

§ 58.143 Raw product storage.

(a) All milk shall be held and processed under conditions and at temperatures that will avoid contamination and rapid deterioration. Drip milk from can washers and any other source shall not be used for the manufacture of dairy products. Bulk milk in storage tanks within the dairy plant shall be handled in such a manner as to minimize bacterial increase and shall be maintained at 45° F. or lower until processing begins. This does not preclude holding milk at higher temperatures for a period of time, where applicable to particular manufacturing or processing practices.

(b) The bacteriological quality of commingled milk in storage tanks shall not exceed 3,000,000/ml.

§ 58.144 Pasteurization or ultra-pasteurization.

When pasteurization or ultra-pasteurization is intended or required, or when a product is designated "pasteurized" or "ultra-pasteurized" every particle of the product shall be subjected to such temperatures and holding periods in approved systems as will assure proper pasteurization or ultra-pasteurization of the product. The heat treatment by either process shall be sufficient to insure public health safety and to assure adequate keeping quality, yet retaining the most desirable flavor and body characteristics of the finished product.

§ 58.145 Composition and wholesomeness.

All necessary precautions shall be taken to prevent contamination or adulteration of the milk or dairy products during manufacturing. All substances and ingredients used in the processing or manufacturing of any dairy product shall be subject to inspection and shall be wholesome and practically free from impurities. The finished products shall comply with the requirements of the Federal Food, Drug, and Cosmetic Act as to their composition and wholesomeness.

§ 58.146 Cleaning and sanitizing treatment.

(a) *Equipment and utensils.* The equipment, sanitary piping and utensils used in receiving and processing of the milk, and manufacturing and handling of the product shall be maintained in a sanitary condition. Sanitary seal assemblies shall be removable on all agitators, pumps, and vats and shall be inspected at regular intervals and kept clean. Unless other provisions are recommended in the following supplement sections, all equipment not designed for C.I.P. cleaning or mechanical cleaning shall be disassembled after each day's use for thorough cleaning. Dairy cleaners, detergents, wetting agents or sanitizing agents, or other similar materials which will not contaminate or adversely affect the products may be used. Steel wool or metal sponges shall not be used in the cleaning of any dairy equipment or utensils.

(1) Product contact surfaces shall be subjected to an effective sanitizing treatment prior to use, except where dry cleaning is permitted. Utensils and portable equipment used in processing and manufacturing operations shall be stored above the floor in clean, dry lo-

cations and in a self draining position on racks constructed of impervious corrosion-resistant material.

(2) C.I.P. cleaning or mechanical cleaning systems shall be used only on equipment and pipeline systems which have been designed, engineered and installed for that purpose. When such cleaning is used, careful attention shall be given to the proper procedures to assure satisfactory cleaning. All C.I.P. installations and cleaning procedures shall be in accordance with 3-A Suggested Method for the Installation and Cleaning of Cleaned-In-Place Sanitary Milk Pipelines for Milk and Milk Products Plants. Because of the possibilities of corrosion, the recommendations of the cleaning compound manufacturer should be followed with respect to time, temperature and concentration of specific acid or alkaline solutions and bactericides. Such cleaning operation should be preceded by a thorough rinse at approximately 110-115° F. continuously discarding the water. Following the circulation of the cleaning solution the equipment and lines shall be thoroughly rinsed with lukewarm water and checks should be made for effectiveness of cleaning. All caps, plugs, special fittings, valve seats, cross ends, pumps, and tee ends shall be opened or removed and brushed clean. All non-pasteurized product contact surfaces should be sanitized. Immediately prior to starting the product flow, the pasteurized product contact surfaces shall be given sanitizing treatment.

(b) *Milk cans and can washers.* Milk cans and lids shall be cleaned, sanitized and dried before returning to producers. Inspection, repair or replacement of cans and lids shall be adequate to substantially exclude from use cans and lids showing open seams, cracks, rust condition, milkstone or any unsanitary condition.

Washers shall be maintained in a clean and satisfactory operating condition and kept free from accumulation of scale or debris which will adversely affect the efficiency of the washer. Only washing compounds which are compatible with the water for effective cleaning, should be used. The can washer should be checked regularly during the run for proper operation. At the end of the day, the wash and rinse tanks should be drained and cleaned, jets and strainers cleaned, air filters checked and changed or cleaned if needed, and checks should be made for proper adjustment and condition of mechanical parts.

(c) *Milk transport tanks.* A covered or enclosed wash dock and cleaning and sanitizing facilities shall be available to all plants that receive or ship milk in tanks. Milk transport tanks, sanitary piping, fittings, and pumps shall be cleaned and sanitized at least once each day after use: Provided that, if they are not to be used immediately after emptying a load of milk, they shall be washed promptly after use and given bactericidal treatment immediately before use. After being washed and sanitized, each tank should be identified by a tag attached to the outlet valve, bearing the following information: Plant and specific location where cleaned, date and time of day of washing and sanitizing, and name of person who washed and name of person who sanitized the tank. The tag shall not be removed until the tank is again washed and sanitized.

(d) *Building.* All windows, glass, partitions, and skylights should be washed as often as necessary to keep them clean. Cracked or broken glass shall be replaced promptly. The walls, ceilings and doors should be washed periodically and kept free from soil and unsightly conditions. The shelves and ledges should be wiped or vacuumed as often as necessary to keep them free from dust and debris. The material picked up by the vacuum cleaners shall be disposed of in sealed containers which will prevent contamination or insect infestation from the waste material.

§ 58.147 Insect and rodent control program.

In addition to any commercial pest control service, if one is utilized, a specially designated employee should be made responsible for the performance of a regularly scheduled insect and rodent control program. Poisonous substances shall be properly labeled, and shall be handled, stored and used in such a manner as considered satisfactory by the Environmental Protection Agency.

§ 58.148 Plant records.

Adequate plant records shall be maintained of all required tests and analyses performed in the laboratory or throughout the plant during storage, processing and manufacturing, on all raw milk receipts and dairy products. Such records shall be available for examination at all reasonable times by the inspector. The following are the records which shall be maintained for examination at the plant or receiving station where performed.

(a) Sediment and bacterial test results on raw milk from each producer. Retain for 12 months.

(1) Routine tests and monthly summary of all producers showing number and percent of total in each class.

(2) Retests, if initial test places milk in probationary status.

(3) Rejections of raw milk over No. 3 in quality.

(b) Pasteurization recorder charts. Retain for 3 months.

(c) Water supply test certificate. Retain current copy for 6 months.

(d) Cooling and heating recorder charts. Retain for 3 months.

(Approved by the Office of Management and Budget under OMB control number 0583-0047)[1]

[40 FR 47911, Oct. 10, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 745, Jan. 7, 1982]

§ 58.149 Alternate quality control programs for dairy products.

(a) When a plant has in operation an acceptable quality control program which is approved by the Administrator as being effective in obtaining results comparable to or higher than the quality control program as outlined in this subpart, then such a program may be accepted in lieu of the program herein prescribed.

(b) Where a minimum number of samples per batch of product, or per unit of time on continuous production runs are not specified, the phrase "as many samples shall be taken as is necessary to assure compliance to specific quality requirements" is used. Acceptable performance of this would be any method approved by the Administrator as meeting sound statistical methods of selecting samples and determining the number of samples to be taken.

PACKAGING AND GENERAL IDENTIFICATION

§ 58.150 Containers.

(a) The size, style, and type of packaging used for dairy products shall be commercially acceptable containers and packaging materials which will satisfactorily cover and protect the quality of the contents during storage and regular channels of trade and under normal conditions of handling.

(b) Packaging materials for dairy products shall be selected which will provide sufficiently low permeability to air and vapor to prevent the formation of mold growth and surface oxidation. In addition, the wrapper should be resistant to puncturing, tearing, cracking or breaking under normal conditions of handling, shipping and storage. When special type packaging is used, the instructions of the manufacturer shall be followed closely as to its application and methods of closure.

§ 58.151 Packaging and repackaging.

(a) Packaging dairy products or cutting and repackaging all styles of dairy products shall be conducted under rigid sanitary conditions. The atmosphere of the packaging rooms, the equipment and packaging materials shall be practically free from mold and bacterial contamination. Methods for checking the level of contamination shall be as prescribed by the latest edition of Standard Methods or by other satisfactory methods approved by the Administrator.

(b) When officially graded bulk dairy products are to be repackaged into consumer type packages with official grade labels or other official identification, a supervisor of packaging shall be required, see Subpart A of this part. (Title 7, §§ 58.2 and 58.53 of the Code of Federal Regulations). If the packaging or repackaging is done in a plant other than the one in which the dairy product is manufactured, the plant, equipment, facilities and personnel shall meet the same requirements as outlined in this subpart.

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[1] EDITORIAL NOTE: See table appearing in § 58.100 for correct OMB control number.

§ 58.152 General identification.

All commercial bulk packages or consumer packaged product containing dairy products manufactured under the provisions of this subpart shall comply with the applicable regulation of the Food and Drug Administration.

STORAGE OF FINISHED PRODUCT

§ 58.153 Dry storage.

The product should be stored at least 18 inches from the wall in aisles, rows, or sections and lots, in such a manner as to be orderly and easily accessible for inspection. Rooms should be cleaned regularly. It is recommended that dunnage or pallets be used when practical. Care shall be taken in the storage of any other product foreign to dairy products in the same room, in order to prevent impairment or damage to the dairy product from mold, absorbed odors, or vermin or insect infestation. Control of humidity and temperature shall be maintained at all times, consistent with good commercial practices, to prevent conditions detrimental to the product and container.

§ 58.154 Refrigerated storage.

Finished product in containers subject to such conditions that will affect its useability shall be placed on shelves, dunnage or pallets and properly identified. It shall be stored under temperatures that will best maintain the initial quality. The product shall not be exposed to anything from which it might absorb any foreign odors or be contaminated by drippage or condensation.

INSPECTION, GRADING AND OFFICIAL IDENTIFICATION

§ 58.155 Grading.

Dairy products which have been processed or manufactured in accordance with the provisions of this subpart may be graded by the grader in accordance with the U.S. Standards for Grades. Laboratory analyses, when required in determining the final grade shall be conducted in an approved laboratory.

§ 58.156 Inspection.

Dairy products, which have been processed or manufactured in an approved plant, and for which there are no official U.S. Standards for Grades, shall be inspected for quality by the inspector in accordance with contract requirements or product specifications established by the U.S. Department of Agriculture or other Federal agency or buyer and seller. Laboratory analysis when required shall be conducted in an approved laboratory.

§ 58.157 Inspection or grading certificates.

All dairy products which have been processed or manufactured, packaged and inspected or graded in accordance with the provision of this part may be covered by an inspection or grading certificate issued by the inspector or grader.

§ 58.158 Official identification.

(a) Application for authority to apply official identification to packaging material or containers shall be made in accordance with the provisions of Subpart A of this part. (Title 7, §§ 58.49 through 58.57 of the Code of Federal Regulations.)

(b) Only dairy products received, processed, or manufactured in accordance with the specifications contained in this subpart and inspected and/or graded in accordance with the provisions of this part may be identified with official identification.

EXPLANATION OF TERMS

§ 58.159 Terms.

(a) *Fresh and sweet.* Free from "old milk" flavor of developed acidity or other off-flavors.

(b) *Normal feed.* Regional feed flavors, such as alfalfa, clover, silage, or similar feeds or grasses (weed flavors, such as peppergrass, French weed, onion, garlic, or other obnoxious weeds, excluded).

(c) *Off-flavors.* Tastes or odors, such as utensil, bitter, barny, or other associated defects when present to a degree readily detectable.

(d) *Developed acidity.* An apparent increase from the normal acidity of the milk to a degree of taste and odor which is detectable.

(e) *Extraneous matter.* Foreign substances, such as filth, hair, insects and fragments thereof, and rodents, and materials, such as metal, fiber, wood and glass.

(f) *Sediment.* Fine particles of material other than the foreign substances and materials defined in paragraph (e) of this section.

(g) *C.I.P.* The abbreviation of an approved system of cleaning pipelines called "Cleaned-in-Place."

(h) *Mechanical cleaning.* Denotes cleaning solely by circulation and/or flowing chemical detergent solution and water rinses onto and over the surfaces to be cleaned, by mechanical means.

SUPPLEMENTAL SPECIFICATIONS FOR PLANTS MANUFACTURING, PROCESSING AND PACKAGING NONFAT DRY MILK, INSTANT NONFAT DRY MILK, DRY WHOLE MILK, AND DRY BUTTERMILK

DEFINITIONS

§ 58.205 Meaning of words.

For the purpose of the regulations in this subpart, words in the singular form shall be deemed to impart the plural and vice versa, as the case may demand. Unless the context otherwise requires, the following terms shall have the following meaning:

(a) *Nonfat dry milk.* The pasteurized product resulting from the removal of fat and water from milk, and contains the lactose, milk proteins, and milk minerals in the same relative proportions as in the fresh milk from which made. It shall not contain buttermilk, or any added preservative, neutralizing agent or other chemical.

(b) *Instant nonfat dry milk.* Nonfat dry milk which has been produced in such a manner as to substantially improve its dispersing and reliquification characteristics over that produced by the conventional process.

(c) *Dry whole milk.* The pasteurized product resulting from the removal of water from milk and contains the lactose, milk proteins, milk fat, and milk minerals in the same relative proportions as in the fresh milk from which made. The milk may be standardized but shall not contain buttermilk, or any added preservative, neutralizing agent or other chemicals.

(d) *Dry buttermilk.* The product resulting from drying liquid buttermilk, derived from the manufacture of sweet cream butter, which has been pasteurized either before or during the process of manufacture, with or without the addition of lactic culture and to which no alkali or other chemical preservatives has been added.

ROOMS AND COMPARTMENTS

§ 58.210 Dry storage of product.

Storage rooms for the dry storage of product shall be adequate in size, kept clean, orderly, free from rodents, insects, and mold, and maintained in good repair. They shall be adequately lighted and ventilated. The ceilings, walls, beams and floors should be free from structural defects and inaccessible false areas which may harbor insects.

§ 58.211 Packaging room for bulk products.

A separate room or area shall be provided for filling bulk containers, and shall be constructed in accordance with § 58.126. The number of control panels and switch boxes in this area should be kept to a minimum. Control panels shall be mounted a sufficient distance from the walls to facilitate cleaning or satisfactorily sealed to the wall, or shall be mounted in the wall and provided with tight fitting removable doors to facilitate cleaning. An adequate exhaust system shall be provided to minimize the accumulation of product dust within the packaging room and where needed, a dust collector shall be provided and properly maintained to keep roofs and outside areas free of dry product. Only packaging materials that are used within a day's operation may be kept in the packaging area. These materials shall be kept on metal racks or tables at least six inches off the floor. Unnecessary fixtures, equipment, or false areas which may collect dust and harbor insects, should not be allowed in the packaging room.

§ 58.212 Hopper or dump room.

A separate room shall be provided for the transfer of bulk dry dairy products to the hoppers and conveyors which lead to the fillers. This room shall meet the same requirements for construction and facilities as the bulk packaging operation. Areas and facilities provided for the transfer of dry dairy products from portable bulk bins will be accepted if gasketed surfaces or direct connections are used that appreciably eliminate the escape of product into the area.

§ 58.213 Repackaging room.

A separate room shall be provided for the filling of small packages and shall meet the same requirements for construction and facilities as the bulk packaging operation.

EQUIPMENT AND UTENSILS

§ 58.214 General construction, repair and installation.

All equipment and utensils necessary to the manufacture of dry milk products, including pasteurizer, timing-pump or device, flow diversion valve and recorder controller, shall meet the same general requirements as outlined in § 58.128 of this subpart. In addition, for certain other equipment the following requirements shall be met.

§ 58.215 Pre-heaters.

The pre-heaters shall be of stainless steel or other equally corrosion resistant material, cleanable, accessible for inspection and shall be equipped with suitable automatic temperature controls.

§ 58.216 Hotwells.

The hotwells shall be enclosed or covered and should be equipped with indicating thermometers either in the hotwell or in the hot milk inlet line to the hotwell. If used for holding high heat products, they should also have recorders.

§ 58.217 Evaporators and/or vacuum pans.

Evaporators or vacuum pans or both, with open type condensers shall be equipped with an automatic condenser water level control, barometric leg, or so constructed so as to prevent water from entering the product. New or replacement units shall comply with the 3-A Sanitary Standards for Milk and Milk Products Evaporators and Vacuum Pans. When enclosed type condensers are used, no special controls are needed to prevent water from entering the product. Water collected from the condensing of product (cow water) in this equipment may be utilized for prerinsing and cleaning solution make-up; provided it is equipped with proper controls that will automatically divert water with entrained solids to the waste water system. "Cow water" shall not be used for acidified or final equipment rinse.

§ 58.218 Surge tanks.

If surge tanks are used for hot milk, and temperatures of product including foam being held in the surge tank during processing, is not maintained at a minimum of 150° F, then two or more surge tanks shall be installed with cross connections to permit flushing and cleaning during operation. Covers easily removable for cleaning shall be provided and used at all times.

§ 58.219 High pressure pumps and lines.

High pressure lines may be cleaned-in-place and shall be of such construction that dead ends, valves and the high pressure pumps can be disassembled for hand cleaning. The high pressure pump shall comply with the 3-A Sanitary Standard for Homogenizers and Pumps of the Plunger Type.

§ 58.220 Drying systems.

(a) *Spray dryers.* Spray dryers shall be of a continuous discharge type and all product contact surfaces shall be of stainless steel or other equally corrosion resistant material. All joints and seams in the product contact surfaces shall be welded and ground smooth. All dryers shall be constructed so as to facilitate ease in cleaning and inspection. Sight glasses or ports of sufficient size shall be located at strategic positions. Dryers shall be equipped with suitable air intake filters. The filter system shall comply with the applicable requirements of the 3-A Accepted Practices for Milk and Milk Products Spray Drying Systems. The filtering system shall be cleaned or component parts replaced as often as necessary to maintain a clean and adequate air supply. In gas fired dryers, precautions should be taken to assure complete combustion. Air shall be drawn into the dryer from sources free from objectionable odors and smoke, dust or dirt. New systems, replacement systems, or portions of systems replaced shall comply with the requirements of the 3-A Accepted Practices for Milk and Milk Products Spray Drying Systems.

(b) *Roller dryers.* (1) The drums of a roller dryer shall be smooth, readily cleanable and free of pits and rust. The knives shall be maintained in such condition so as not to cause scoring of the drums.

(2) The end boards shall have an impervious surface and be readily cleanable. They shall be provided with a means of adjustment to prevent leakage and accumulation of milk solids. The stack, hood, the drip pan inside of the hood and related shields shall be constructed of stainless steel and be readily cleanable. The lower edge of the hood shall be constructed so as to prevent condensate from entering the product zone. The hood shall be properly located and the stack of adequate capacity to remove the vapors. The stack shall be closed when the dryer is not in operation. The augers shall be stainless steel or properly plated, and readily cleanable. The auger troughs and related shields shall be of stainless steel and be readily cleanable. All air entering the dryer room shall be filtered to eliminate dust and dirt. The filter system shall consist of filtering media or device that will effectively, and in accordance with good commercial practices, prevent the entrance of foreign substances into the drying room. The filtering system shall be cleaned or component parts replaced as often as necessary to maintain a clean and adequate air supply. All dryer adjustments shall be made and the dryer operating normally before food grade product is collected from the dryer.

(c) *Other drying systems.* These systems shall be constructed following the applicable principles of the 3-A Accepted Practices for Milk and Milk Products Spray Drying Systems.

§ 58.221 Collectors and conveyors.

Collectors shall be made of stainless steel or equally noncorrosive material and should be constructed to facilitate cleaning and inspection. Filter sack collectors, if used, shall be in good condition and the system shall be of such construction that all parts are accessible for cleaning and inspection. Conveyors shall be of stainless steel or equally corrosion resistant material and should be constructed to facilitate thorough cleaning and inspection.

§ 58.222 Dry dairy product cooling equipment.

Cooling equipment shall be provided with sufficient capacity to cool the product as specified in § 58.240. A suitable dry air supply with an effective filtering system meeting the requirements of § 58.220(a) shall be provided where air cooling and conveying is used.

§ 58.223 Special treatment equipment.

Any special equipment (instantizers, hammer mills, etc.) used to treat dry milk products shall be of sanitary construction and all parts shall be accessible for cleaning and inspection. New or replacement instantizing systems shall comply with the 3-A Accepted Practices for Instantizing Systems for Dry Milk and Dry Milk Products.

§ 58.224 Sifters.

All newly installed sifters used for dry milk and dry milk products shall comply with the 3-A Sanitary Standards for Sifters for Dry Milk and Dry Milk Products. All other sifters shall be constructed of stainless steel or other equally noncorrosive material and shall be of sanitary construction and accessible for cleaning and inspection. The mesh size of sifter screen used for various dry dairy products shall be those recommended in the appendix of the 3-A Standard for sifters.

§ 58.225 Clothing and shoe covers.

Clean clothing and shoe covers shall be provided exclusively for the purpose of cleaning the interior of the dryer when it is necessary to enter the dryer to perform the cleaning operation.

§ 58.226 Portable and stationary bulk bins.

Bulk bins shall be constructed of stainless steel, aluminum or other equally corrosion resistant materials, free from cracks, seams and must have an interior surface that is relatively smooth and easily cleanable. All product contact surfaces shall be easily accessible for cleaning. The capacity of each portable and bulk bin shall be limited to permit proper operating procedures such as sampling and daily removal of all product to preclude commingling of different days production.

§ 58.227 Sampling device.

If automatic sampling devices are used, they shall be constructed in such a manner as to prevent contamination of the product, and all parts must be readily accessible for cleaning. The type of sampler and the sampling procedure shall be as approved by the Administrator.

§ 58.228 Dump hoppers, screens, mixers and conveyors.

The product contact surfaces of dump hoppers, screens, mixers and conveyors which are used in the process of transferring dry products from bulk containers to fillers for small packages or containers, shall be of stainless or equally corrosion resistant material and designed to prevent contamination. All parts should be accessible for cleaning. The dump hoppers shall be of such height above floor level as to prevent foreign material or spilled product from entering the hopper.

§ 58.229 Filler and packaging equipment.

All filling and packaging equipment shall be of sanitary construction and all parts, including valves and filler heads accessible for cleaning. New or replacement equipment should comply with the 3A Sanitary Standards for equipment for Packaging Dry Milk and Dry Milk Products.

§ 58.230 Heavy duty vacuum cleaners.

Each plant handling dry milk products shall be equipped with a heavy duty industrial vacuum cleaner. The vacuum cleaner shall be of a type that has a collector or disposable bag which will not recontaminate the atmosphere of the processing and packaging areas. Regular scheduling shall be established for its use in vacuuming applicable areas.

QUALITY SPECIFICATIONS FOR RAW MATERIALS

§ 58.231 General.

All raw materials received at the drying plant shall meet the following quality specifications.

§ 58.232 Milk.

Raw milk shall meet the requirements as outlined in §§ 58.132 through 58.138 and, unless processed within two hours after being received, it shall be cooled to and held at a temperature of 45° F. or lower until processed.

§ 58.233 Skim milk.

The skim milk shall be separated from whole milk meeting the requirements as outlined in §§ 58.132 through 58.138, and unless processed immediately, it shall be cooled to and maintained at a temperature of 45° F. or lower from the time of separating until the time of processing.

§ 58.234 Buttermilk.

Buttermilk for drying shall be fresh, sweet, and from the churning of sweet cream butter, with or without the addition of harmless lactic culture. No neutralizing agent or chemical preservative may be added. Fluid buttermilk, unless cultured, shall be held at 45° F. or lower unless processed within 2 hours.

§ 58.235 Modified dry milk products.

Dry milk products to which approved neutralizing agents or chemicals have been added or constituents removed to alter their original characteristics for processing or usage shall come from products meeting the requirements of §§ 58.232, 58.233, or 58.234. These products shall meet the applicable labeling requirements.

OPERATIONS AND OPERATING PROCEDURES

§ 58.236 Pasteurization and heat treatment.

All milk and buttermilk used in the manufacture of dry milk products and modified dry milk products shall be pasteurized at the plant where dried, except that acidified buttermilk containing 40 percent or more solids may be transported to another plant for drying without repasteurization. Provided the condensed product is handled according to sanitary conditions approved by the Administrator.

(a) *Pasteurization.* (1) All milk or skim milk to be used in the manufacture of nonfat dry milk shall be pasteurized prior to condensing at a minimum temperature of 161° F. for at least 15 seconds or its equivalent in bacterial destruction. Condensed milk products made from pasteurized milk may be transported to a drying plant, provided that it shall be effectively repasteurized at the drying plant, prior to drying, at no less than 166° F. for 15 seconds or its equivalent in bacterial destruction.

(2) All buttermilk shall be pasteurized prior to condensing at a temperature of 161° F. for 15 seconds or its equivalent in bacterial destruction.

(b) *Heat treatment*—(1) *High-heat.* The finished product shall not exceed 1.5 mg. undenatured whey protein nitrogen per gram of nonfat dry milk as classified in the U.S. Standards for Grades of Nonfat Dry Milk (Spray Process).

(2) *Medium-heat.* The finished product shall show undenatured whey protein nitrogen between the levels of "high-heat" and "low-heat" (1.51 to 5.99 mg.).

(3) *Low-heat.* The finished product shall show not less than 6.0 undenatured whey protein nitrogen per gram of non-fat dry milk as classified in the U.S. Standards for Grades of Nonfat Dry Milk (Spray Process).

§ 58.237 Condensed surge supply.

Surge tanks or balance tanks if used between the evaporators and dryer shall be used to hold only the minimum amount of condensed product necessary for a uniform flow to the dryers. Such tanks holding product at temperatures below 150° F. shall be completely emptied and washed after each 4 hours of operation or less. Alternate tanks shall be provided to permit continuous operation during washing of tanks.

§ 58.238 Condensed storage tanks.

(a) Excess production of condensed product over that which the dryer will take continuously from the pans should be bypassed through a cooler into a storage tank at 50° F. or lower and held at this temperature until used.

(b) Product cut-off points shall be made at least every 24 hours and the tank completely emptied, washed, and sanitized before reuse.

§ 58.239 Drying.

Each dryer should be operated to produce the highest quality dry product consistent with the most efficient operation. The dry products shall be removed from the drying chamber continuously during the drying process.

§ 58.240 Cooling dry products.

Prior to packaging and immediately following removal from the drying chamber the dry product shall be cooled to a temperature not exceeding 110° F, however, if the product is to be held in a bulk bin the temperature should be reduced to approximately 90° F but shall be not more than 110° F.

§ 58.241 Packaging, repackaging and storage.

(a) *Containers.* Packages or containers used for the packaging of nonfat dry milk or other dry milk products shall be any clean, sound commercially accepted container or packaging material which will satisfactorily protect the contents through the regular channels of trade, without significant impairment of quality with respect to flavor, wholesomeness or moisture content under the normal conditions of handling. In no instance will containers which have previously been used for nonfood items, or food items which would be deleterious to the dairy product be allowed to be used for the bulk handling of dairy products.

(b) *Filling.* Empty containers shall be protected at all times from possible contamination and containers which are to be lined shall not be prepared more than one hour in advance of filling. Every precaution shall be taken during the filling operation to minimize product dust and spillage. When necessary a mechanical shaker shall be provided; the tapping or pounding of containers should be prohibited. The containers shall be closed immediately after filling and the exteriors shall be vacuumed or brushed when necessary to render them practically free of residual product before being transferred from the filling room to the palleting or dry storage areas.

(c) *Repackaging.* The entire repackaging operation shall be conducted in a sanitary manner with all precautions taken to prevent contamination and to minimize dust. All exterior surfaces of individual containers shall be practically free of product before overwrapping or packing in shipping containers. The room shall be kept free of dust accumulation, waste, cartons, liners, or other refuse. Conveyors, packaging and carton making equipment shall be vacuumed frequently during the operating day to prevent the accumulation of dust. No bottles or glass materials of any kind shall be permitted in the repackaging or hopper room. The inlet openings of all hoppers and bins shall be of minimum size, screened and placed well above the floor level. The room and all packaging equipment shall be cleaned as often as necessary to maintain a sanitary operation. Close attention shall be given to cleaning equipment where residues of the dry product may accumulate. A thorough clean-up including windows, doors, walls, light fixtures and ledges, should be performed as frequently as is necessary to maintain a high standard of cleanliness and sanitation. All waste dry dairy products including dribble product at the fillers, shall be properly identified and disposed of as animal feed.

(d) *Storage*—(1) *Product.* The packaged dry milk product shall be stored or so arranged in aisles, rows, or sections and lots at least 18 inches from any wall and in such a manner as to be orderly, easily accessible for inspection or for cleaning of the room. All bags and small containers of products shall be placed on pallets elevated from the floor. Products in small containers may be stored by methods preventing direct contact with the floor when the condition of the container is satisfactorily maintained. The storage room shall be kept clean and dry and all openings protected against entrance of insects and rodents.

(2) *Supplies.* All supplies shall be placed on dunnage or pallets and arranged in an orderly manner for accessibility and cleaning of the room. It is preferable that supplies be stored in an area separate from that used for storing the dry products. Supplies shall be kept enclosed in their original wrapping material until used. After removal of supplies from their original containers, they shall be kept in an enclosed metal cabinet, bins or on shelving and if not enclosed shall be protected from powder, and dust or other contamination. The room should be vacuumed as often as necessary and kept clean and orderly.

§ 58.242 Product adulteration.

All necessary precautions shall be taken throughout the entire operation to prevent the adulteration of one product with another. The commingling of one type of liquid or dry product with another shall be considered as an adulteration of that product. This does not prohibit the normal standardization of like products in accordance with good commercial practices or the production of specific products for special uses, provided applicable labeling requirements are met.

§ 58.243 Checking quality.

All milk, milk products and dry milk products shall be subject to inspection and analysis by the dairy plant for quality and condition throughout each processing operation. Periodically samples of product and environmental material shall be tested for salmonella. Test results shall be negative when samples are tested for salmonella. Line samples should be taken periodically as an aid to quality control in addition to the regular routine analysis made on the finished products.

§ 58.244 Number of samples.

As many samples shall be taken from each dryer production lot as is necessary to assure proper composition and quality control. A sufficient number of representative samples from the lot shall be taken to assure compliance with the stated net weight on the container.

§ 58.245 Method of official sample analysis.

Samples shall be tested according to the applicable methods of laboratory analysis contained in DA Instruction 918-103, 918-109-1 and 918-109-3 as issued by the USDA, Agricultural Marketing Service, Dairy Division.

§ 58.246 Cleaning of dryers, collectors, conveyors, ducts, sifters and storage bins.

This equipment shall be cleaned as often as is necessary to maintain such equipment in a clean and sanitary condition. The kind of cleaning procedure either wet or dry and the frequency of cleaning shall be based upon observation of actual operating results and conditions.

§ 58.247 Insect and rodent control program.

In addition to any commercial pest control service, if one is utilized, a specially designated employee should be made responsible for the performance of a regularly scheduled insect and rodent control program as outlined in University of Wisconsin Extension Bulletin A2518 or subsequent revisions thereof, or one equivalent thereto.

REQUIREMENTS FOR FINISHED PRODUCTS BEARING USDA OFFICIAL IDENTIFICATION

§ 58.248 Nonfat dry milk.

(a) Nonfat dry milk in commercial bulk containers bearing an official identification shall meet the requirements of U.S. Extra Grade or U.S. Standard Grade.

(b) Regular nonfat dry milk in consumer size packages which bears an official identification shall meet the requirements of U.S. Extra Grade. In addition, the nonfat dry milk shall be sampled and tested in accordance with §§ 58.244 and 58.245.

§ 58.249 Instant nonfat dry milk.

(a) Only instant nonfat dry milk manufactured and packaged in accordance with the requirements of this part and with the applicable requirements in Subpart A of this part which has been officially inspected in process and found to be in compliance with these requirements may be identified with the official USDA U.S. Extra Grade, processed and packed inspection shield.

(b) Instant nonfat dry milk shall meet the applicable standard for U.S. Extra Grade.

§ 58.250 Dry whole milk.

Dry whole milk in commercial bulk containers which bears an official identification shall meet the requirements for the U.S. Standards for Grades of Dry Whole Milk. Quality requirements for dry whole milk in consumer packages shall be for U.S. Extra Grade and shall be gas packed with an oxygen content of not more than 2.0 percent.

§ 58.251 Dry buttermilk.

The quality requirements for all dry buttermilk bearing official identification shall be in accordance with U.S. Standards for Grades of Dry Buttermilk. Dry cultured buttermilk shall meet the same requirements as listed above except that allowances shall be made for increased acidity due to the culture process.

SUPPLEMENTAL SPECIFICATIONS FOR PLANTS MANUFACTURING, PROCESSING AND PACKAGING BUTTER AND RELATED PRODUCTS

DEFINITIONS

§ 58.305 Meaning of words.

For the purpose of the regulations in this subpart, words in the singular form shall be deemed to impart the plural and vice versa, as the case may demand. Unless the context otherwise requires, the following terms shall have the following meaning.

(a) *Butter.* The food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, with or without additional coloring matter, and containing not less than 80 percent by weight of milkfat, all tolerances having been allowed for.

(b) *Butteroil.* The food product resulting from the removal of practically all of the moisture and solids-not-fat from butter. It contains not less than 99.6 percent fat, and not more than 0.3 percent moisture; and not more than 0.1 percent other butter constituents, of which the salt shall be not more than 0.05 percent.

(c) *Anhydrous milkfat.* The food product resulting from the removal of practically all of the moisture and the solids-not-fat from pasteurized cream. It contains not less than 99.8 percent fat, and not more than 0.15 percent moisture.

(d) *Frozen cream.* Sweet cream which has been pasteurized and frozen. It contains approximately 40 percent milkfat.

(e) *Plastic cream.* Sweet cream which has been pasteurized and contains approximately 80 percent milkfat.

(f) *Whipped butter.* Butter which has been stirred or whipped to incorporate air or inert gas, until its volume has been increased up to a range of from 50 to 100 percent. It contains not less than 80.0 percent fat by weight.

ROOMS AND COMPARTMENTS

§ 58.311 Coolers and freezers.

The coolers and freezers shall be equipped with facilities for maintaining proper temperature and humidity conditions, consistent with good commercial practices for the applicable product, to protect the equality and condition of the products during storage or during tempering prior to further processing. Coolers and freezers shall be kept clean, orderly, free from insects, rodents, and mold, and maintained in good repair. They shall be adequately lighted and proper circulation of air shall be maintained at all times. The floors, walls, and ceilings shall be of such construction as to permit thorough cleaning.

§ 58.312 Churn rooms.

Churn rooms in addition to proper construction and sanitation shall be so equipped that the air is kept free from objectionable odors and vapors and extreme temperatures by means of adequate ventilation and exhaust systems or air conditioning and heating facilities.

§ 58.313 Print and bulk packaging rooms.

Rooms used for packaging print or bulk butter and related products should, in addition to proper construction and sanitation, provide an atmosphere relatively free from mold (not more than 15 colonies per plate during a 15 min. exposure), dust, or other airborne contamination and maintain a reasonable room temperature in accordance with good commercial practices.

EQUIPMENT AND UTENSILS

§ 58.314 General construction, repair and installation.

All equipment and utensils necessary to the manufacture of butter and related products shall meet the same general requirements as outlined in § 58.128. In addition for certain other equipment, the following requirements shall be met.

§ 58.315 Continuous churns.

All product contact surfaces of the churn and related equipment shall be of noncorrosive material. All non-metallic product contact surfaces shall comply with 3-A Standards for Plastic, Rubber, and Rubber-Like Materials.

All product contact surfaces of the churn and related equipment shall be readily accessible for cleaning and inspection. Construction shall follow the applicable principles of the 3-A Sanitary Standards.

§ 58.316 Conventional churns.

Churns shall be constructed of aluminum, stainless steel or equally corrosion resistant metal, free from cracks, and in good repair. All gasket material shall be fat resistant, nontoxic and reasonably durable. Seals around the doors shall be tight.

§ 58.317 Bulk butter trucks, boats, texturizers, and packers.

Bulk butter trucks, boats, texturizers, and packers shall be constructed of aluminum, stainless steel, or equally corrosion resistant metal free from cracks, seams and must have a surface that is relatively smooth and easily cleanable. All non-metallic product surfaces shall comply with 3-A Standards for Plastic, Rubber, and Rubber-Like Material.

§ 58.318 Butter, frozen or plastic cream melting machines.

Shavers, shredders or melting machines used for rapid melting of butter, frozen or plastic cream shall be of stainless steel or equally corrosion resistant metal, free from cracks and of sanitary construction, and readily cleanable.

§ 58.319 Printing equipment.

All printing equipment shall be designed so as to adequately protect the product and be readily demountable for cleaning of product contact surfaces. All product contact surfaces shall be aluminum, stainless steel or equally corrosion resistant metal, or plastic, rubber and rubber like material which comply with 3-A standards, except that conveyors may be constructed of material which can be properly cleaned and maintained in a satisfactory manner.

§ 58.320 Brine tanks.

Brine tanks used for the treating of parchment liners shall be constructed of noncorrosive material and have an adequate and safe means of heating the salt solution for the treatment of the liners. The tank should also be provided with a satisfactory drainage outlet.

§ 58.321 Cream storage tanks.

Cream storage tanks shall meet the requirements of § 58.128(d). Cream storage tanks for continuous churns should be equipped with effective temperature controls and recording devices.

QUALITY SPECIFICATIONS FOR RAW MATERIAL

§ 58.322 Cream.

Cream separated at an approved plant and used for the manufacture of butter shall have been derived from raw material meeting the requirements as listed under §§ 58.132 through 58.138 of this subpart.

[50 FR 34673, Aug. 27, 1985]

EFFECTIVE DATE NOTE: At 50 FR 34673, Aug. 27, 1985, § 58.322 was revised, effective July 1, 1986. For the convenience of the user, the text remaining in effect until July 1, 1986 is set forth below:

§ 58.322 Cream.

Cream separated at an approved plant and used for the manufacture of butter shall have been derived from raw material meeting the requirements as listed under §§ 58.132 thru 58.138 of this subpart.

The inspection of farm-separated cream to be used for manufacturing or processing into dairy products under this part shall be based on organoleptic examination and quality control tests to determine suitability of cream at the time of delivery thereof at the receiving plant or substation.

(a) *Organoleptic examination.* Cream received at an approved receiving plant or substation shall be identified as to the producer, seller, or shipper from whom received. Each can of cream in each shipment shall be examined for physical characteristics, off-taste and odors including those associated with developed acidity. The condition of the cream shall be wholesome and characteristic of normal cream. The organoleptic examination and segregation of the cream which is used in the manufacturing or processing into butter, shall be consistent with the applicable flavor classification of butter set forth in the U.S. Standards for Grades of Butter. Any cream having pronounced or offensive off-taste or odors, or which is in an abnormal condition (including, but not being limited to surface mold, foamy, yeasty, fruity, or containing extraneous matter), or which is otherwise unwholesome, shall be rejected to the producer, seller, or shipper and shall not be used in the processing or manufacturing of dairy products.

(b) *Sediment content classification.* (1) For the purpose of quality control and establishing a rejection level of cream to the producer, seller, or shipper, the following classifications of cream for sediment shall be applicable using USDA Sediment Chart (7 CFR 58.2728) as the basis for classification.

(i) Sediment (off-the-bottom method):

No. 1—USDA Sediment Standard (not to exceed) 0.50 mg.

No. 2—USDA Sediment Standard (not to exceed) 1.00 mg.

No. 3—USDA Sediment Standard (not to exceed) 2.50 mg.

(ii) Sediment (mixed-can method):

No. 1—USDA Sediment Standard (not to exceed) 0.20 mg.

No. 3—USDA Sediment Standard (not to exceed) 1.00 mg.

(2) At least twice each month one can of cream from each producer, seller, or shipper of farm separated cream shall be selected at random and tested by using the "off-the-bottom" method or the "mixed-can" method in accordance with acceptable and approved procedures.

(3) As a supplement to the regular sediment testing procedure it is recommended that whole-can filtering facilities be utilized for each can of each shipment of cream from the producer for coarse sediment or extraneous matter and rejections be made in accordance with State or Federal Food and Drug Administration practices.

(c) *Acceptable cream.* Cream acceptable pursuant to the requirements of paragraph (a) of this section for organoleptic examination and complying with No. 1 or No. 2 for sediment content may be used in the processing or manufacturing of dairy products.

(d) *Probational cream.* Cream acceptable pursuant to the requirements of paragraph (a) of this section for organoleptic examination but classified No. 3 for sediment content may be accepted for processing in an approved plant for three successive deliveries. Thereafter each successive delivery shall be tested for sediment content prior to acceptance. If the sediment content is in excess of No. 2 such cream shall be rejected to the producer, seller, or shipper, and successor substation should contact the producer, seller, or shipper involved in the production of probational cream and if necessary arrange to inspect the equipment, utensils, and facilities at the farm, receiving plant or substation and to offer constructive assistance for improvement in the quality of the cream.

(e) *Rejected cream.* (1) The cream from a producer, seller or shipper who has failed to improve the quality of his cream during the probationary period so as to meet the requirements of No. 2, or better, for sediment shall be rejected cream. Any further acceptance of cream from such a producer, seller, or shipper shall be on the basis of testing each shipment for sediment content, prior to acceptance to determine if the cream is No. 2, or better. If all cans of cream of the subsequent shipment meet No. 2, or better, such cream shall be classified as probational cream. When three successive shipments indicate cream of No. 2, or better, the cream may again be accepted, subject to regular periodic testing and quality control measures.

(2) If the initial new shipment fails to meet the requirements of No. 2 cream, or better, the plant shall not accept such cream until a representative of the plant again contacts the producer, seller, or shipper for the purpose of offering constructive assistance in correcting the unsatisfactory condition.

(f) *Field service.* A representative of the plant should arrange to promptly contact each producer, seller, or shipper involved in the production of probational or reject cream for the purpose of offering constructive assistance for the improvement in the quality of the cream. If necessary, he should arrange to inspect the equipment, utensils, and facilities at the farm, receiving plant, or substation. A representative of the plant should visit each producer, seller, or shipper as often as is practicable to assist in and encourage the production of high quality cream.

(g) *Records.* Accurate plant records listing the results of quality tests made on raw cream shall be maintained on cream from each producer, seller, or shipper. Each producer, seller, or shipper, shipping probational or rejected cream, shall be informed immediately of the results of such quality tests. Producers, sellers, or shippers shipping No. 1 and No. 2 cream should receive such information at the time of regular remittances. Such records shall be available for examination by the inspector and kept on file for at least one year.

(h) *Alternate quality program.* When a processor has in operation an acceptable quality program, at the producer level, which is approved by the Administrator as being effective in obtaining results comparable to or higher than the quality program as outlined above for cream, then such a program may be accepted in lieu of the program herein prescribed.

(Approved by the Office of Management and Budget under OMB control number 0583-0047)[1]

[40 FR 47911, Oct. 10, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 745, Jan. 7, 1982]

§ 58.323 Whipped butter.

Whipped butter to be eligible for official certification with a U.S. Grade shield shall be graded prior to whipping and shall have originated from an approved plant. If made from cream in a continuous churning and whipping process, the quality of the cream used shall meet the requirements of cream for butter of comparable U.S. Grade.

§ 58.324 Butteroil.

To produce butteroil eligible for official certification, the butter used shall conform to the flavor requirements of U.S. Grade AA, U.S. Grade A, or U.S. Grade B, and shall have been manufactured in an approved plant.

§ 58.325 Anhydrous milkfat.

Made by a continuous separation process directly from milk or cream. To produce anhydrous milkfat eligible for official certification, the cream used shall be comparable to the flavor quality specified above for U.S. Grade AA or U.S. Grade A butter. Appearance should be fairly smooth and uniform in consistency. The cream shall be pasteurized in accordance with the procedure for cream for butter making (§ 58.334a).

§ 58.326 Plastic cream.

To produce plastic cream eligible for official certification, the quality of the cream used shall meet the requirements of cream acceptable for the manufacture of U.S. Grade AA or U.S. Grade A butter.

§ 58.327 Frozen cream.

To produce frozen cream eligible for official certification, the quality of the cream used shall meet the requirements of cream acceptable for the manufacture of U.S. Grade AA or U.S. Grade A butter.

§ 58.328 Salt.

The salt shall be free-flowing, white refined sodium chloride and shall meet the requirements of The Food Chemical Codex.

§ 58.329 Color.

Coloring, when used shall be Annatto or any color which is approved by the U.S. Food and Drug Administration.

§ 58.330 Butter starter cultures.

Harmless bacterial cultures when used in the development of flavor components in butter and related products shall have a pleasing and desirable flavor and shall have the ability to transmit these qualities to the finished product.

§ 58.331 Starter distillate.

The refined flavor components when used to flavor butter and related products. It shall be of food grade quality, free of extraneous material and prepared in accordance with good commercial practice.

OPERATIONS AND OPERATING PROCEDURES

§ 58.332 Segregation of raw material.

The milk and cream received at the dairy plant shall meet the quality specifications as indicated under § 58.322. The milk and cream should be segregated by quality and processed separately in such a manner that the finished product will fully meet the requirements of a particular U.S. Grade or other specification, whichever is applicable.

§ 58.334 Pasteurization.

The milk or cream shall be pasteurized at the plant where the milk or cream is processed into the finished product or by procedures as set forth by the Administrator.

(a) *Cream for butter making.* The cream for butter making shall be pasteurized at a temperature of not less than 165° F. and held continuously in a vat at such temperature for not less than 30 minutes; or pasteurized by HTST method at a minimum temperature of not less than 185° F. for not less than 15 seconds; or it shall be pasteurized by any other equivalent temperature and holding time which will assure adequate pasteurization. Additional heat treatment above the minimum pasteurization requirement is advisable to insure improved keeping-quality characteristics.

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[1] EDITORIAL NOTE: See table appearing in § 58.100 for correct OMB control number.

Adequate pasteurization control shall be used and the diversion valve shall be set to divert at no less than 185° F. with a 15 second holding time or its equivalent in time and temperature to assure pasteurization. If the vat or holding method of pasteurization is used, vat covers shall be closed prior to holding period to assure temperature of air space reaching 5° F. higher than the minimum temperature during the holding time. Covers shall also be kept closed during the holding and cooling period.

(b) *Cream for plastic or frozen cream.* The pasteurization of cream for plastic or frozen cream shall be accomplished in the same manner as in paragraph (a) of this section, except, that the temperature for the vat method shall be not less than 170° F. for not less than 30 minutes, or not less than 190° F. for not less than 15 seconds or by any other temperature and holding time which will assure adequate pasteurization and comparable keeping-quality characteristics.

§ 58.335 Quality control tests.

All milk, cream and related products are subject to inspection for quality and condition throughout each processing operation. Quality control tests shall be made on flow samples as often as necessary to check the effectiveness of processing and manufacturing and as an aid in correcting deficiencies in processing and manufacturing. Routine analysis shall be made on raw materials and finished products to assure adequate microbiological, composition and chemical control.

§ 58.336 Frequency of sampling for quality control of cream, butter and related products.

(a) *Microbiological.* Samples shall be taken from churnings or batches and should be taken as often as is necessary to insure microbiological control.

(b) *Composition.* Sampling and testing for product composition shall be made on churns or batches as often as is necessary to insure adequate composition control. For in-plant control, the Kohman or modified Kohman test may be used.

(c) *Chemical*—(1) *Acid degree value.* This test should be made on churnings or batches from samples taken from the cream as often as is necessary to aid in the control of lipase activity.

(2) *Free fatty acid.* This test should be made on churnings or batches from samples taken from the butter as often as is necessary to aid in the control of lipase activity.

(d) *Other analysis.* Other chemical analysis or physical measurements shall be performed as often as is necessary to insure meeting grade standards and contract specifications.

(e) *Weight or volume control.* Representative samples of the packaged product should be checked using procedures prescribed by the Administrator during the packaging operation to assure compliance with the stated net weight or volume on the container.

(f) *Keeping quality and stability.* Samples from churnings shall be subjected to a seven day keeping quality test at a temperature of 72° F. to establish and maintain a satisfactory keeping quality history. Optionally 98° F. for 48 hours may be used, however, in case of a dispute, the results of the seven days at 72° F. will prevail.

§ 58.337 Official test methods.

(a) *Chemical.* Chemical analyses except where otherwise prescribed herein, shall be made in accordance with the methods described in the latest edition of Official Methods of Analysis of the Association of Official Analytical Chemists, published by the Association of Official Analytical Chemists, the Official and Tentative Methods of the American Oil Chemists Society or any other methods giving equivalent results.

(b) *Microbiological.* Microbiological determinations shall be made in accordance with the methods described or suggested in the latest edition of Standard Methods for the Examination of Dairy Products, published by the American Public Health Association.

§ 58.338 Composition and wholesomeness.

All ingredients used in the manufacture of butter and related products shall be subject to inspection and shall be wholesome and practically free from impurities. Chlorinating facilities shall be provided for butter wash water if needed and all other necessary precautions shall be taken to prevent contamination of products. All finished products shall comply with the requirements of the Federal Food, Drug and Cosmetic Act, as to composition and wholesomeness.

§ 58.339 Containers.

(a) Containers used for the packaging of butter and related products shall be commercially acceptable containers or packaging material that will satisfactorily protect the quality of the contents in regular channels of trade. Caps or covers which extend over the lip of the container shall be used on all cups or tubs containing two pounds or less, to protect the product from contamination during subsequent handling.

(b) *Liners and wrappers.* Supplies of parchment liners, wrappers and other packaging material shall be protected against dust, mold and other possible contamination.

(1) Prior to use, parchment liners for bulk butter packages shall be completely immersed in a boiling salt solution in a suitable container constructed of stainless steel or other equally non-corrosive material. The liners shall be maintained in the solution for not less than 30 minutes. The liners shall be effectively treated with a solution consisting of at least 15 pounds of salt for every 85 pounds of water and shall be strengthened or changed as frequently as necessary to keep the solution full strength and in good condition.

(2) Other liners such as polyethylene shall be treated or handled in such a manner as to prevent contamination of the liner prior to filling.

(c) *Filling bulk butter containers.* The lined butter containers shall be protected from possible contamination prior to filling. Use of parchment liners may be accomplished by alternately inverting one container over the other or stacking the lined boxes on their sides in a rack, until ready for use. When using polyethylene liners the boxes should be lined immediately prior to use. When packing butter into the bulk containers, care shall be taken to fill the corners leaving as few holes or openings as possible. The surface of the butter as well as the covering liner shall be smoothed evenly over the top surface before closing and sealing the container. Containers should be stacked only as high as the firmness of the product will support weight, so as not to crush or distort the container.

§ 58.340 Printing and packaging.

Printing and packaging of consumer size containers of butter shall be conducted under sanitary conditions. Separate rooms equipped with automatic filling and packaging equipment should be provided. The outside cartons should be removed from bulk butter in a room outside of the printing operation but the parchment removal and cutting of the butter may be done in the print room.

§ 58.341 Repackaging.

When officially graded or inspected bulk product is to be repackaged into consumer type packages for official grade labeling or other official identification, a supervisor of packaging shall be required and the plant, equipment, facilities and personnel shall meet the same specifications as outlined in this part, including such markings or identification as may be required.

§ 58.342 General identification.

Commercial bulk shipping containers shall be legibly marked with the name of the product, net weight, name and address of manufacturer, processor or distributor or other assigned plant identification (manufacturer's lot number, churn number, etc.) and any other identification that may be required. Packages of plastic or frozen cream shall be marked with the percent of milkfat.

§ 58.343 Storage of finished product in coolers.

All products shall be kept under refrigeration at temperatures of 40° F. or lower after packaging and until ready for distribution or shipment. The products shall not be placed directly on floors or exposed to foreign odors or conditions such as drippage due to condensation which might cause package or product damage.

§ 58.344 Storage of finished product in freezer.

(a) *Sharp freezers.* Plastic cream or frozen cream intended for storage shall be placed in quick freezer rooms immediately after packaging, for rapid and complete freezing within 24 hours. The packages shall be piled or spaced in such a manner that air can freely circulate between and around the packages. The rooms shall be maintained at −10° F. or lower and shall be equipped to provide sufficient high velocity, air circulation for rapid freezing. After the products have been completely frozen, they may be transferred to a freezer storage room for continued storage.

(b) *Freezer storage.* The room shall be maintained at a temperature of 0° F. or lower. Adequate air circulation is desirable.

Butter intended to be held more than 30 days shall be placed in a freezer room as soon as possible after packaging. If not frozen before being placed in the freezer, the packages shall be spaced in such a manner as to permit rapid freezing and repiled, if necessary, at a later time.

REQUIREMENTS FOR FINISHED PRODUCTS BEARING USDA OFFICIAL IDENTIFICATION

§ 58.345 Butter.

The quality requirements for butter shall be in accordance with the U.S. Standards for Grades of Butter for U.S. Grade AA, U.S. Grade A, or U.S. Grade B, respectively.

(a) In addition, the butter is subject to the following specifications when sampled and tested in accordance with §§ 58.336 and 58.337.

(b) Proteolytic count, not more than 100 per gram; yeast and mold count, not more than 20 per gram; coliform count, not more than 10 per gram.

(c) Optional except when required or requested: Copper content, not more than 0.3 ppm; iron content, not more than 1.0 ppm; enterococci, not more than 10 per gram.

§ 58.346 Whipped butter.

The flavor requirements as applicable for Whipped Butter shall be in accordance with the U.S. Standards for Grades of Butter, U.S. Grade AA, U.S. Grade A, or U.S. Grade B respectively.

(a) In addition, the whipped butter is subject to the following specifications when sampled and tested in accordance with §§ 58.336 and 58.337.

(b) Proteolytic count, not more than 100 per gram; yeast and mold count, not more than 20 per gram; coliform count, not more than 10 per gram.

(c) Optional except when required or requested: Copper content, not more than 0.3 ppm; iron content, not more than 1.0 ppm; enterococci, not more than 10 per gram.

§ 58.347 Butteroil or anhydrous milkfat.

The flavor shall be bland, free from rancid, oxidized or other objectionable flavors.

(a) In addition, the finished products shall meet the following specifications when sampled and tested in accordance with §§ 58.336 and 58.337.

Butteroil		Anhydrous milkfat
Not less than 99.6 percent.	Milkfat	Not less than 99.8 percent
Not more than 0.3 percent.	Moisture	Not more than 0.15 percent
Not more than 0.1 percent.	Other butter constituents including salt.	
Not more than 0.05 percent.	Salt	
Not more than 0.5 percent (calculated as oleic acid).	Free fatty acids	Not more than 0.3 percent (calculated as oleic acid)
Not more than 0.1 milliequivalents per kilogram of fat.	Peroxide value	Not more than 0.1 milliequivalents per kilogram of fat

Butteroil		Anhydrous milkfat
Not more than 0.10 ppm.	Copper content	Not more than 0.10 ppm.

§ 58.348 Plastic cream.

The flavor shall be sweet, pleasing and desirable but may possess the following flavors to a slight degree; aged, bitter, flat, smothered and storage; and cooked and feed flavors to a definite degree. It shall be free from rancid, oxidized or other objectionable flavors.

(a) In addition, the finished product shall meet the following specifications when sampled and tested in accordance with §§ 58.336 and 58.337.

(b) Standard plate count, not more than 30,000 per gram; coliform count, not more than 10 per gram; yeast and mold, not more than 20 per gram;

(c) Optional except when required or requested: Copper content not more than 0.3 ppm; iron content not more than 1.0 ppm.

§ 58.349 Frozen cream.

The flavor shall be sweet, pleasing and desirable, but may possess the following flavors to a slight degree: Aged, bitter, flat, smothered, storage; and cooked and feed flavors to a definite degree. It shall be free from rancid, oxidized or other objectionable flavors.

(a) In addition, the product shall meet the following specifications when sampled and tested in accordance with §§ 58.336 and 58.337. Samples for analysis should be taken prior to freezing of the product.

(b) Standard plate count, not more than 30,000 per ml.; coliform count, not more than 10 per ml.; yeast and mold, not more than 20 per ml.

(c) Cptional except when required or requested: Copper content, not more than 0.3 ppm; iron content not more than 1.0 ppm.

SUPPLEMENTAL SPECIFICATIONS FOR PLANTS MANUFACTURING AND PACKAGING CHEESE

DEFINITIONS

§ 58.405 Meaning of words.

For the purpose of the regulations in this subpart, words in the singular form shall be deemed to impart the plural and vice versa as the case may demand. Unless the context otherwise requires, the following terms shall have the following meaning:

(a) *Cheese.* The fresh or matured product obtained by draining after coagulation of milk, cream, skimmed or partly skimmed milk or a combination of some or all of these products and including any cheese that conforms to the provisions of 21 CFR 19.500 up to 19.750,[1] "Definitions and Standards of Identity for Cheese and Cheese Products," Food and Drug Administration.

(b) *Milkfat from whey.* The fat obtained from the separation of cheese whey.

ROOMS AND COMPARTMENTS

§ 58.406 Starter facility.

A separate starter room or properly designed starter tanks and satisfactory air movement techniques shall be provided for the propagation and handling of starter cultures. All necessary precaution shall be taken to prevent contamination of the facility, equipment and the air therein. A filtered air supply with a minimum average efficiency of 90 percent when tested in accordance with the ASHRAE Synthetic Dust Arrestance Test should be provided so as to obtain outward movement of air from the room to minimize contamination.

§ 58.407 Make room.

The rooms in which the cheese is manufactured shall be of adequate size, and the equipment adequately spaced to permit movement around the equipment for proper cleaning and satisfactory working conditions. Adequate filtered air ventilation should be provided. When applicable, the mold count should be not more than 15 colonies per plate during a 15 minute exposure.

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[1] 21 CFR Part 19 was redesignated as Part 133 at 42 FR 14302, Mar. 15, 1977.

§ 58.408 Brine room.

A brine room, when applicable, should be a separate room constructed so it can be readily cleanable. The brine room equipment shall be maintained in good repair and corrosion kept at a minimum.

§ 58.409 Drying room.

When applicable, a drying room of adequate size shall be provided to accommodate the maximum production of cheese during the flush period. Adequate shelving and air circulation shall be provided for proper drying. Temperature and humidity control facilities should be provided which will promote the development of a sound, dry surface of the cheese.

§ 58.410 Paraffining room.

When applicable for rind cheese, a separate room or compartment should be provided for paraffining and boxing the cheese. The room shall be of adequate size and the temperature maintained near the temperature of the drying room to avoid sweating of the cheese prior to paraffining.

§ 58.411 Rindless cheese wrapping area.

For rindless cheese a suitable space shall be provided for proper wrapping and boxing of the cheese. The area shall be free from dust, condensation, mold or other conditions which may contaminate the surface of the cheese or contribute to unsatisfactory packaging of the cheese.

§ 58.412 Coolers or curing rooms.

Coolers or curing rooms where cheese is held for curing or storage shall be clean and maintained at the proper uniform temperature and humidity to adequately protect the cheese, and minimize the undesirable growth of mold. Proper circulation of air shall be maintained at all times. The shelves shall be kept clean and dry. This does not preclude the maintenance of suitable conditions for the curing of mold and surface ripened varieties.

§ 58.413 Cutting and packaging rooms.

When small packages of cheese are cut and wrapped, separate rooms shall be provided for the cleaning and preparation of the bulk cheese and for the cutting and wrapping operation. The rooms shall be well lighted, ventilated and provided with filtered air. Air movement shall be outward to minimize the entrance of unfiltered air into the cutting and packaging room. The waste materials and waste cheese shall be disposed of in an environmentally and/or sanitary approved manner.

EQUIPMENT AND UTENSILS

§ 58.414 General construction, repair and installation.

All equipment and utensils necessary to the manufacture of cheese and related products shall meet the same general requirements as outlined in § 58.128. In addition, for certain other equipment the following requirements shall be met.

§ 58.415 Starter vats.

Bulk starter vats shall be of stainless steel or equally corrosion resistant metal and should be constructed according to the applicable 3-A Sanitary Standards. New or replacement vats shall be constructed according to the applicable 3-A Sanitary Standards. The vats shall be in good repair, equipped with tight fitting lids and have adequate temperature controls such as valves, indicating and/or recording thermometers.

§ 58.416 Cheese vats, tanks and drain tables.

(a) The vats, tanks and drain tables used for making cheese should be of metal construction with adequate jacket capacity for uniform heating. The inner liner shall be minimum 16 gauge stainless steel or other equally corrosion resistant metal, properly pitched from side to center and from rear to front for adequate drainage. The liner shall be smooth, free from excessive dents or creases and shall extend over the edge of the outer jacket. The outer jacket shall be constructed of stainless steel or other metal which can be kept clean and sanitary. The junction of the liner and outer jackets shall be constructed so as to prevent milk or cheese from entering the inner jacket.

(b) The vat, tank and/or drain table shall be equipped with a suitable sanitary outlet valve. Effective valves shall be provided and properly maintained to control the application of heat to this equipment. If this equipment is provided with removable cloth covers, they shall be clean.

§ 58.417 Mechanical agitators.

The mechanical agitators shall be of sanitary construction. The carriages shall be of the enclosed type and all product contact surfaces, shields, shafts, and hubs shall be constructed of stainless steel or other equally corrosion resistant metal. Metal blades, forks, or stirrers shall be constructed of stainless steel and of material approved in the 3-A Sanitary Standards for Plastic, and Rubber and Rubber-Like Materials and shall be free from rough or sharp edges which might scratch the equipment or remove metal particles.

§ 58.418 Automatic cheese making equipment.

(a) *Automatic Curd Maker.* The automatic curd making system shall be constructed of stainless steel or of material approved in the 3-A Sanitary Standards for Plastic, and Rubber and Rubber-Like Material. All areas shall be free from cracks and rough surfaces and constructed so that they can be easily cleaned.

(b) *Curd conveying systems.* The curd conveying system, conveying lines and cyclone separator shall be constructed of stainless steel or other equally corrosion resistant metal and in such manner that it can be satisfactorily cleaned. The system shall be of sufficient size to handle the volume of curd and be provided with filtered air of the quality satisfactory for the intended use. Air compressors or vacuum pumps shall not be located in the processing or packaging areas.

(c) *Automatic salter.* The automatic salter shall be constructed of stainless steel or other equally corrosion resistant metal. This equipment shall be constructed to equally distribute the salt throughout the curd. It shall be designed to accurately weigh the amount of salt added. The automatic salter shall be constructed so that it can be satisfactorily cleaned. The salting system shall provide for adequate absorption of the salt in the curd. Water and steam used to moisten the curd prior to salting shall be potable water or culinary steam.

(d) *Automatic curd filler.* The automatic curd filler shall be constructed of stainless steel or other equally corrosion resistant metal. This equipment shall be of sufficient size to handle the volume of curd and constructed and controlled so as to accurately weigh the amount of curd as it fills. The curd filler shall be constructed so that it can be satisfactorily cleaned.

(e) *Hoop and barrel washer.* The washer shall be constructed so that it can be satisfactorily cleaned. It shall also be equipped with temperature and pressure controls to insure satisfactorily cleaning of the hoops or barrels. It should be adequately vented to the outside.

§ 58.419 Curd mill and miscellaneous equipment.

Knives, hand rakes, shovels, scoops, paddles, strainers, and miscellaneous equipment shall be stainless steel or of material approved in the 3-A Sanitary Standards for Plastic and Rubber-like Material. The product contact surfaces of the curd mill should be of stainless steel. All pieces of equipment shall be so constructed that they can be kept clean and free from rough or sharp edges which might scratch the equipment or remove metal particles. The wires in the curd knives shall be stainless steel, kept tight and replaced when necessary.

§ 58.420 Hoops, forms and followers.

The hoops, forms, and followers shall be constructed of stainless steel, heavy tinned steel or other approved materials. If tinned, they shall be kept tinned and free from rust. All hoops, forms, and followers shall be kept in good repair. Drums or other special forms used to press and store cheese shall be clean and sanitary.

§ 58.421 Press.

The cheese press should be constructed of stainless steel and all joints welded and all surfaces, seams and openings readily cleanable. The pressure device shall be the continuous type. Press cloths shall be maintained in good repair and in a sanitary condition. Single service press cloths shall be used only once.

§ 58.422 Brine tank.

The brine tank shall be constructed of suitable non-toxic material and should be resistant to corrosion, pitting or flaking. The brine tank shall be operated so as to assure the brine is clean, well circulated, and of the proper strength and temperature for the variety of cheese being made.

§ 58.423 Cheese vacuumizing chamber.

The vacuum chamber shall be satisfactorily constructed and maintained so that the product is not contaminated with rust or flaking paint. An inner liner of stainless steel or other corrosion resistant material should be provided.

§ 58.424 Monorail.

The monorail shall be constructed so as to prevent foreign material from falling on the cheese or cheese containers.

§ 58.425 Conveyor for moving and draining block or barrel cheese.

The conveyor shall be constructed so that it will not contaminate the cheese and be easily cleaned. It shall be installed so that the press drippings will not cause an environmental problem.

§ 58.426 Rindless cheese wrapping equipment.

The equipment used to heat seal the wrapper applied to rindless cheese shall have square interior corners, reasonably smooth interior surface and have controls that shall provide uniform pressure and heat equally to all surfaces. The equipment used to apply shrinkable wrapping material to rindless cheese shall operate to maintain the natural intended shape of the cheese in an acceptable manner, reasonably smooth surfaces on the cheese and tightly adhere the wrapper to the surface of the cheese.

§ 58.427 Paraffin tanks.

The metal tank should be adequate in size, have wood rather than metal racks to support the cheese, have heat controls and an indicating thermometer. The cheese wax shall be kept clean.

§ 58.428 Speciality equipment.

All product contact areas of speciality equipment shall be constructed of stainless steel or of material approved in the 3-A Sanitary Standards for Plastic and Rubber and Rubber-Like Material, and constructed following 3-A Sanitary Standards principles.

§ 58.429 Washing machine.

When used, the washing machine for cheese cloths and bandages shall be of commercial quality and size; or of sufficient size to handle the applicable load. It should be equipped with temperature and water level controls.

QUALITY SPECIFICATIONS FOR RAW MATERIAL

§ 58.430 Milk.

The milk shall be fresh, sweet, pleasing and desirable in flavor and shall meet the requirements as outlined under §§ 58.132 through 58.138. The milk may be adjusted by separating part of the fat from the milk or by adding one or more of the following dairy products: Cream, skim milk, concentrated skim milk, nonfat dry milk, and water in a quantity sufficient to reconstitute any concentrated or dry milk used. Such dairy products shall have originated from raw milk meeting the same requirements as outlined under §§ 58.132 through 58.138.

§ 58.431 Hydrogen peroxide.

The solution shall comply with the specification of the U.S. Pharmacopeia, except that it may exceed the concentration specified therein and it does not contain added preservative. Application and usage shall be as specified in the "Definitions and Standards of Identity for Cheese and

Cheese Products", Food and Drug Administration.

§ 58.432 Catalase.

The catalase preparation shall be a stable, buffered solution, neutral in pH, having a potency of not less than 100 Keil units per milliliter. The source of the catalase, its application and usage shall be as specified in the "Definitions and Standards of Identity for Cheese and Cheese Products," Food and Drug Administration.

§ 58.433 Cheese cultures.

Harmless microbial cultures used in the development of acid and flavor components in cheese shall have a pleasing and desirable taste and odor and shall have the ability to actively produce the desired results in the cheese during the manufacturing process.

§ 58.434 Calcium chloride.

Calcium chloride, when used, shall meet the requirements of the Food Chemical Codex.

§ 58.435 Color.

Coloring when used, shall be Annatto or any cheese or butter color which meet the requirements of the Food and Drug Administration.

§ 58.436 Rennet, pepsin, other milk clotting enzymes and flavor enzymes.

Enzyme preparations used in the manufacture of cheese shall be safe and suitable.

§ 58.437 Salt.

The salt shall be free-flowing, white refined sodium chloride and shall meet the requirements of the Food Chemical Codex.

OPERATIONS AND OPERATING PROCEDURES

§ 58.438 Cheese from pasteurized milk.

If the cheese is labeled as pasteurized, the milk shall be pasteurized by subjecting every particle of milk to a minimum temperature of 161° F. for not less than 15 seconds or by any other acceptable combination of temperature and time treatment approved by the Administrator. HTST pasteurization units shall be equipped with the proper controls and equipment to assure pasteurization. If the milk is held more than 2 hours between the time of pasteurization and setting, it shall be cooled to 45° F. or lower until time of setting.

§ 58.439 Cheese from unpasteurized milk.

If the cheese is labeled as "heat treated", "unpasteurized," "raw milk", or "for manufacturing" the milk may be raw or heated at temperatures below pasteurization. Cheese made from unpasteurized milk shall be cured for a period of 60 days at a temperature not less than 35° F. If the milk is held more than 2 hours between time of receipt or heat treatment and setting, it shall be cooled to 45° F. or lower until time of setting.

§ 58.440 Make schedule.

A uniform schedule should be established and followed as closely as possible for the various steps of setting, cutting, cooking, draining the whey and milling the curd, to promote a uniform quality of cheese.

§ 58.441 Records.

Starter and make records should be kept at least three months.

(Approved by the Office of Management and Budget under OMB control number 0583-0047)[1]

[40 FR 47911, Oct. 10, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 745, Jan. 7, 1982]

§ 58.442 Laboratory and quality control tests.

(a) *Chemical analyses*—(1) *Milkfat and moisture.* One sample shall be tested from each vat of the finished cheese to assure compliance with composition requirements.

(2) *Test method.* Chemical analysis shall be made in accordance with the methods described in Official Methods of Analysis of the Association of Official Analytical Chemists as specified in the appropriate standards of identity, the latest edition of Standard Meth-

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[1] EDITORIAL NOTE: See table appearing in § 58.100 for correct OMB control number.

ods or by other methods giving equivalent results.

(b) *Weight or volume control.* Representative samples of the finished product shall be checked during the packaging operation to assure compliance with the stated net weight on the container of consumer size packages.

§ 58.443 Whey handling.

(a) Adequate sanitary facilities shall be provided for the handling of whey. If outside, necessary precautions shall be taken to minimize flies, insects and development of objectionable odors.

(b) Whey or whey products intended for human food shall at all times be handled in a sanitary manner in accordance with the procedures of this subpart as specified for handling milk and dairy products.

(c) Milkfat from whey should not be more than four days old when shipped.

§ 58.444 Packaging and repackaging.

(a) Packaging rindless cheese or cutting and repackaging all styles of bulk cheese shall be conducted under rigid sanitary conditions. The atmosphere of the packaging rooms, the equipment and the packaging material shall be practically free from mold and bacterial contamination.

(b) When officially graded bulk cheese is to be repackaged into consumer type packages with official grade labels or other official identification, a supervisor of packaging shall be required. If the repackaging is performed in a plant other than the one in which the cheese is manufactured and the product is officially identified, the plant, equipment, facilities and personnel shall meet the same requirements as outlined in this part.

§ 58.445 General identification.

Bulk cheese for cutting and the container for cheese for manufacturing shall be legibly marked with the name of the product, code or date of manufacture, vat number, officially designated code number or name and address of manufacturer. Each consumer sized container shall meet the applicable regulations of the Food and Drug Administration.

Requirements for Finished Products Bearing USDA Official Identification

§ 58.446 Quality requirements.

(a) *Cheddar cheese.* The quality requirements for Cheddar cheese shall be in accordance with the U.S. Standards for Grades of Cheddar Cheese.

(b) *Colby cheese.* The quality requirements for Colby cheese shall be in accordance with the U.S. Standards for Grades of Colby Cheese.

(c) *Monterey (Monterey Jack) cheese.* The quality requirements for Monterey (Monterey Jack) cheese shall be in accordance with the U.S. Standards for Grades of Monterey (Monterey Jack) Cheese.

(d) *Swiss cheese, Emmentaler cheese.* The quality requirements for Swiss cheese, Emmentaler cheese shall be in accordance with the U.S. Standards for Grades for Swiss Cheese, Emmentaler Cheese.

(e) *Bulk American cheese for manufacturing.* The quality requirements for bulk American cheese for manufacturing shall be in accordance with the U.S. Standards for Grades of Bulk American Cheese for Manufacturing.

Supplemental Specifications for Plants Manufacturing and Packaging Cottage Cheese

Definitions

§ 58.505 Meaning of words.

For the purpose of the regulations in this subpart, words in the singular form shall be deemed to impart the plural and vice versa, as the case may demand. Unless the context otherwise requires, the following terms shall have the following meaning:

(a) *Condensed skim.* Skim milk which has been condensed to approximately one-third the original volume in accordance with standard commercial practice.

(b) *Cottage cheese.* (1) *Cottage cheese dry curd.* The soft uncured cheese meeting the requirements of 21 CFR 19.525[1] Food and Drug Administration.

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[1] See footnote at § 58.405.

(2) *Cottage cheese.* The soft uncured cheese meeting the requirements of 21 CFR 19.530,[1] Food and Drug Administration.

(3) *Lowfat Cottage cheese.* The soft uncured cheese meeting the requirements of 21 CFR 19.531,[1] Food and Drug Administration.

(c) *Direct acidification.* The production of cottage cheese, without the use of bacterial starter cultures, through the use of approved food grade acids. This product shall be labeled according to the requirements of 21 CFR 19.530(d),[1] Food and Drug Administration.

(d) *Cottage cheese with fruits, nuts, chives, or other vegetables.* Shall consist of cottage cheese to which has been added fruits, nuts, chives or other vegetables. The finished cheese shall comply with § 58.505(b).

(e) *Cream.* The milkfat portion of milk which rises to the surface of milk on standing or is separated from it by centrifugal force and contains not less than 18.0 percent of milkfat.

(f) *Creaming mixture.* The creaming mixture consists of cream or a mixture of cream with milk or skim milk or both. To adjust the solids content, nonfat dry milk or concentrated skim milk may be added but not to exceed 3.0 percent by weight of the creaming mixture. It may or may not contain a culture of harmless lactic acid and flavor producing bacteria, food grade acid, salt, and stabilizers with or without carriers. The creaming mixture in its final form may or may not be homogenized and shall conform to the provisions of 21 CFR 19.530(b),[1] Food and Drug Administration.

ROOMS AND COMPARTMENTS

§ 58.510 Rooms and compartments.

(a) Processing operations with open cheese vats should be separated from other rooms or areas. Excessive personnel traffic or other possible contaminating conditions should be avoided. Rooms, compartments, coolers, and dry storage space in which any raw material, packaging or ingredients supplies or finished products are handled, processed, packaged or stored shall be designed and constructed to assure clean and orderly operations.

(b) *Ventilation.* Processing and packaging rooms or compartments shall be ventilated to maintain sanitary conditions, preclude the growth of mold and air borne bacterial contaminants, prevent undue condensation of water vapor and minimize or eliminate objectionable odors. To minimize air borne contamination in processing and packaging rooms a filtered air supply meeting the requirements of § 58.510(c) shall be provided. The incoming air shall exert an outward pressure so that the movement of air will be outward and prevent the movement of unfiltered air inward.

(c) *Starter facility.* A separate starter room or properly designed starter tanks and satisfactory air movement techniques shall be provided for the propagation and handling of starter cultures. All necessary precautions shall be taken to prevent contamination of the room, equipment and the air therein. A filtered air supply with a minimum average efficiency of 90% when tested in accordance with the ASHRAE Synthetic Dust Arrestance Test should be provided so as to obtain an outward movement of air from the room to minimize contamination.

(d) *Coolers.* Coolers shall be equipped with facilities for maintaining proper temperature and humidity conditions, consistent with good commercial practices for the applicable product, to protect the quality and condition of the products. Coolers shall be kept clean, orderly and free from mold, and maintained in good repair. They shall be adequately lighted and proper circulation of air shall be maintained at all times. The floors, walls, and ceilings shall be of such construction as to permit thorough cleaning.

EQUIPMENT AND UTENSILS

§ 58.511 General construction, repair and installation.

The equipment and utensils used for the manufacture and handling of cottage cheese shall be as specified in § 58.128. In addition for certain other equipment the following requirements shall be met.

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[1] See footnote at § 58.405.

§ 58.512 Cheese vats or tanks.

(a) Cheese vats or tanks shall meet the requirements of § 58.416. When direct steam injection is used for heating the milk, the vat or tank may be of single shell construction. The steam shall be culinary steam.

(b) Vats shall be equipped with valves to control the heating and cooling medium and a suitable sanitary outlet valve. Vats used for creaming curd should be equipped with a refrigerated cooling medium. A circulating pump for the heating and cooling medium is recommended.

§ 58.513 Agitators.

Mechanical agitators shall meet the requirements of § 58.417.

§ 58.514 Container fillers.

Shall comply with the 3-A Sanitary Standards for Equipment for Packaging Frozen Desserts and Cottage Cheese.

§ 58.515 Mixers.

Only mixers shall be used which will mix the cheese carefully and keep shattering of the curd particles to a minimum. They shall be constructed in such a manner as to be readily cleanable. If shafts extend through the wall of the tank below the level of the product, they shall be equipped with proper seals which are readily removable for cleaning and sanitizing. The mixer shall be enclosed or equipped with tight fitting covers.

§ 58.516 Starter vats.

Bulk starter vats shall meet the requirements of § 58.415.

QUALITY SPECIFICATIONS FOR RAW MATERIAL

§ 58.517 General.

Raw materials used for manufacturing cottage cheese shall meet the following quality specifications.

§ 58.518 Milk.

The selection of raw milk for cottage cheese shall be in accordance with §§ 58.132 through 58.138.

§ 58.519 Dairy products.

(a) *Raw skim milk.* All raw skim milk obtained from a secondary source shall be separated from milk meeting the same quality requirements for milk as outlined in § 58.518 above. Skim milk after being pasteurized and separated shall be cooled to 45° F. or lower unless the skim milk is to be set for cheese within two hours after pasteurizing. The skim milk should not be more than 48 hours old from the time the milk was received at the plant and the skim milk is set for cheese.

(b) *Nonfat dry milk.* Nonfat dry milk, when used, shall be obtained from milk meeting the same quality requirements as outlined in § 58.518 above. It shall be processed according to the requirements of this Subpart, and should meet the requirements of § 58.236(b)(3).

(c) *Condensed skim milk.* Condensed skim milk, if used, shall be prepared from raw milk or skim milk that meets the same quality requirements outlined above for raw milk or skim milk. It shall be cooled promptly after drawing from the vacuum pan or evaporator and shall have been pasteurized before concentrating or during the manufacture. The standard plate count of the concentrated milk shall not exceed 30,000 per ml. at time of use.

(d) *Cream.* Any cream used for preparing the dressing for creamed cottage cheese shall be separated from milk meeting at least the same quality requirements as the skim milk used for making the curd. The flavor of the cream shall be fresh and sweet. Cream obtained from a secondary source shall meet the same requirements. The creaming mixture prepared from this cream, after pasteurization, shall have a standard plate count of no more than 30,000 per ml.

§ 58.520 Nondairy ingredients.

(a) *Calcium chloride.* Calcium chloride, when used, shall be of food grade quality and free from extraneous material.

(b) *Salt.* Salt shall be free flowing, white refined sodium chloride and shall meet the requirements of The Food Chemical Codex.

(c) *Other ingredients.* Other ingredients such as fruits, nuts, chives or other vegetables used or blended with cottage cheese shall be reasonably free of bacteria so as not to appreciably increase the bacterial count of the finished product. The various ingredients in kind shall be consistent in size and color so as to produce the desired appearance and appeal of the finished product. The flavor of the ingredients used shall be natural and represent the intended flavor and intensity desired in the finished product. Such ingredients shall be clean, wholesome, of uniformly good quality, free from mold, rancid or decomposed particles. Vegetables used in cottage cheese may first be soaked for 15 to 20 minutes in a cold 25 to 50 ppm chlorine solution to appreciably reduce the bacterial population. After soaking, the vegetables shall be drained and used soon thereafter.

OPERATIONS AND OPERATING PROCEDURES

§ 58.521 Pasteurization and product flow.

(a) The skim milk used for the manufacture of cottage cheese shall be pasteurized not more than 24 hours prior to the time of setting by heating every particle of skim milk to a temperature of 161° F. for not less than 15 seconds or by any other combination of temperature and time giving equivalent results. All skim milk must be cooled promptly to setting temperature. If held more than two hours between pasteurization and time of setting, the skim milk shall be cooled and held at 45° F. or lower until set.

(b) Cream or cheese dressing shall be pasteurized at not less than 150° F. for not less than 30 minutes or at not less than 166° F. for not less than 15 seconds or by any other combination of temperature and time treatment giving equivalent results. Cream and cheese dressing shall be cooled promptly to 40° F. or lower after pasteurization to aid in further cooling of cottage cheese curd for improved keeping quality.

(c) Reconstituted nonfat dry milk for cottage cheese manufacture need not be re-pasteurized provided it is reconstituted within two hours prior to the time of setting using water which is free from viable pathogenic or otherwise harmful microorganisms as well as microorganisms which may cause spoilage of cottage cheese. Skim milk separated from pasteurized whole milk need not be re-pasteurized provided it is separated in equipment from which all traces of raw milk from previous operations have been removed by proper cleaning and sanitizing.

§ 58.522 Reconstituting nonfat dry milk.

Nonfat dry milk shall be reconstituted in a sanitary manner.

§ 58.523 Laboratory and quality control tests.

(a) Quality control tests shall be made on samples as often as necessary to determine the shelf-life and stability of the finished product. Routine analyses shall be made on raw materials and finished product to assure satisfactory composition, shelf-life and stability.

(b) *Frequency of sampling*—(1) *Microbiological.* Samples of raw milk for testing shall be taken as prescribed in § 58.135. Representative samples shall be taken of finished cottage cheese and from each lot or batch of product used as an ingredient. For keeping quality tests representative samples shall be taken of finished cottage cheese;

(2) *Chemical*—(i) *Milkfat and Moisture.* Representative samples shall be taken of cottage cheese; dry cottage cheese shall be tested for moisture only.

(ii) *pH.* Representative samples shall be taken of finished cottage cheese.

(c) *Test methods*—(1) *Microbiological.* Microbiological determinations shall be made for coliform, psychrotrophic and yeasts and molds. These tests shall be made in accordance with the methods described in the latest edition of Standard Methods for the Examination of Dairy Products, published by the American Public Health Association.

(2) *Chemical.* Chemical analysis shall be made in accordance with the methods described in the latest edition of Official Methods of Analysis of the Association of Official Analytical

Chemists, published by the Association of Official Analytical Chemists, the latest edition of Standard Methods for the Examination of Dairy Products, or by other methods giving equivalent results.

§ 58.524 Packaging and general identification.

(a) *Containers.* Containers used for packaging cottage cheese shall be any commercially acceptable multiple use or single service container or packaging material which will satisfactorily protect the contents through the regular channels of trade without significant impairment of quality with respect to flavor, or contamination under normal conditions of handling. Caps or covers which extend over the lip of the container shall be used on all cups or tubs containing two pounds or less, to protect the product from contamination during subsequent handling.

(b) *Packaging.* The cheese shall be packaged in a sanitary manner and automatic filling and capping equipment shall be used on all small sizes. The containers shall be checked weighed during the filling operation to assure they are filled uniformly to not less than the stated net weight on the container. Also care shall be taken that the cottage cheese be of uniform consistency at the time of packaging to assure legal composition in all packages.

(c) *General identification.* Bulk packages containing cottage cheese shall be adequately and legibly marked with the name of the product, net weight, name and address of the manufacturer, lot number, code or date of packaging and any other identification as may be required. Consumer size packaged products shall meet the applicable regulations of the Food and Drug Administration.

§ 58.525 Storage of finished product.

Cottage cheese after packaging shall be promptly stored at a temperature of 45° F. or lower to maintain quality and condition until loaded for distribution. During distribution and storage prior to sale the product should be maintained at a temperature of 45° F. or lower. The product shall not be exposed to foreign odors or conditions such as drippage or condensation that might cause package or product damage. Packaged cottage cheese shall not be placed directly on floors.

REQUIREMENTS FOR COTTAGE CHEESE BEARING USDA OFFICIAL IDENTIFICATION

§ 58.526 Official identification.

(a) Only cottage cheese manufactured and packaged in accordance with the requirements of this part and with the applicable requirements in Subpart A of this part which has been officially inspected in process and found to be in compliance with these requirements may be identified with the official USDA Quality Approved Inspection Shield.

(b) *Nonfat dry milk.* Nonfat dry milk, when used in cottage cheese bearing official identification, shall meet the requirements for U.S. Extra Grade (Spray Process), at time of use, and should be of U.S. Low Heat Classification (not less than 6.0 mg. undenatured whey protein nitrogen per gram of nonfat dry milk). In addition, the nonfat dry milk shall have a direct microscopic count not exceeding 75 million per gram. The age of the nonfat dry milk shall be covered by a USDA grading certificate, evidencing compliance with quality requirements, dated not more than 6 months prior to use of the dry milk. In the interim between manufacture and use, the nonfat dry milk shall be stored in a clean, dry, vermin-free space. In any case, if the nonfat dry milk is more than 120 days old, at time of use, it shall be examined for flavor to make certain that it meets the requirements for U.S. Extra Grade.

§ 58.527 Physical requirements.

(a) *Flavor.* The cottage cheese shall possess a mild pleasing flavor, similar to fresh whole milk or light cream and may possess the delicate flavor and aroma of a good lactic starter. The product may possess to a slight degree a feed, acid, or salty flavor but shall be free from chalky, bitter, utensil, fruity, yeasty, or other objectionable flavors.

(b) *Body and texture.* The curd particles shall have a meaty texture, but sufficiently tender to permit proper absorption of cream or cheese dressing. The texture shall be smooth and velvety and shall not be mealy, crumbly, pasty, sticky, mushy, watery, rubbery or slimy or possess any other objectionable characteristics of body and texture. Small curd style (cut with ¼ inch knives) should have curd particles approximately ¼ inch or less in size. Large curd style (cut with knives over ¼ inch) should have curd particles approximately ⅜ inch or more in size.

(c) *Color and appearance.* The finished cottage cheese, creamed or plain curd, shall have an attractive natural color and appearance with curd particles of reasonably uniform size. The creamed cottage cheese shall be uniformly mixed with the cream or dressing properly absorbed or adhering to the curd so as to prevent excessive drainage.

§ 58.528 Microbiological requirements.

Compliance shall be based on 3 out of 5 consecutive samples taken at the time of packaging.

(a) *Coliform.* Not more than 10 per gram.

(b) *Psychrotrophic.* No more than 100 per gram.

(c) *Yeasts and molds.* Not more than 10 per gram.

§ 58.529 Chemical requirements.

(a) *Moisture.* See § 58.505(b).

(b) *Milkfat.* See § 58.505(b).

(c) *pH.* Not higher than 5.2.

(d) *Phosphatase.* Not more than 4 micrograms of phenol equivalent per gram of cheese.

§ 58.530 Keeping quality requirements.

Keeping quality samples taken from the packaging line shall be held at 45° F. for 10 days. At the end of the 10 day period the samples shall possess a satisfactory flavor and appearance, and shall be free from bitter, sour, fruity, or other objectionable tastes and odors. The surface shall not be discolored, translucent, slimy or show any other objectionable condition.

SUPPLEMENTAL SPECIFICATIONS FOR PLANTS MANUFACTURING, PROCESSING AND PACKAGING FROZEN DESSERTS

DEFINITIONS

§ 58.605 Meaning of words.

For the purpose of the regulations in this subpart, words in the singular form shall be deemed to impart the plural and vice versa, as the case may demand. Unless the context otherwise requires, the following terms shall have the following meaning as applied to frozen desserts meeting FDA requirements and briefly defined as follows:

(a) *Ice cream.* The product conforming to the requirements of § 20.2[1] "Definitions and Standards of Identity for Frozen Desserts," U.S. Food and Drug Administration (21 CFR 20.2).[1]

(b) *Frozen custard.* The product conforming to the requirements of § 20.2[1] "Definitions and Standards of Identity for Frozen Desserts," U.S. Food and Drug Administration (21 CFR 20.2).[1]

(c) *Ice milk.* The product conforming to the requirements of § 20.3[1] "Definitions and Standards of Identity for Frozen Desserts," U.S. Food and Drug Administration (21 CFR 20.3).[1]

(d) *Sherbet.* The product conforming to the requirements of § 20.4[1] "Definitions and Standards of Identity for Frozen Desserts," U.S. Food and Drug Administration (21 CFR 20.4).[1]

(e) *Mellorine.* The product conforming to the requirements of § 20.8[1] "Definitions and Standards of Identity for Frozen Desserts," U.S. Food and Drug Administration (21 CFR 20.8).[1]

(f) *Overrun.* The trade expression used to reference the increase in volume of the frozen product over the volume of the mix. This increase in volume is due to air being whipped into the product during the freezing process. It is expressed as percent of the volume of the mix.

(g) *Mix.* The trade name for the combined and processed ingredients which after freezing become a frozen dessert.

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[1] 21 CFR, Part 20 was redesignated as Part 135 at 42 FR 14303, Mar. 15, 1977.

ROOMS AND COMPARTMENTS

§ 58.619 Mix processing room.

The rooms used for combining mix ingredients and processing the mix shall meet the applicable requirements for rooms specified in § 58.126. The room shall be ventilated to remove moisture and prevent condensation from forming on walls and ceiling. The room shall be well lighted.

§ 58.620 Freezing and packaging rooms.

The rooms used for freezing and packaging frozen desserts shall be adequate in size to permit satisfactory air circulation and maintained in a clean and sanitary condition. The rooms shall be constructed in the same manner as prescribed above for mix rooms.

§ 58.621 Freezing tunnels.

Freezing tunnels for quick freezing at extremely low temperatures shall be designed and constructed as to insure ease in cleaning and satisfactory conditions of operation.

§ 58.622 Hardening and storage rooms.

Hardening and storage rooms for frozen desserts shall be constructed of satisfactory material for this purpose. The rooms shall be maintained in a clean and orderly manner. Adequate shelves, bins, or pallets shall be provided to keep the packages of finished products off the floor and to prevent damage to the containers. Sufficient refrigeration should be provided to insure adequate storage temperature (−10° or lower). Air shall be circulated to maintain uniform temperature throughout the rooms. A vestibule or double entry way should be provided to minimize heat shock of the frozen products.

EQUIPMENT AND UTENSILS

§ 58.623 Homogenizer.

Homogenizer shall comply with 3-A Sanitary Standards.

§ 58.624 Freezers.

Product contact surfaces of freezers used to lower the temperature of the liquid mix to a semi-frozen mass by a stirring action shall be constructed of a stainless steel or equally corrosion resistant metal and all parts easily accessible for cleaning and sanitizing. Batch and continuous freezers should comply with the applicable 3-A Standards.

§ 58.625 Fruit or syrup feeders.

Fruit or syrup feeders inject flavoring material into the semi-frozen product. Product contact surfaces shall be constructed of stainless steel or equally corrosion resistant metal and all pumps shall be in accordance to 3-A Sanitary Standards for dairy equipment. The feeder shall be constructed to enable complete disassembly for cleaning and sanitizing.

§ 58.626 Packaging equipment.

Packaging equipment designed to mechanically fill and close single service containers with frozen desserts shall be constructed so that all product contact surfaces shall be of stainless steel or equally corrosion-resistant metal. All product contact surfaces shall be easily accessible for cleaning. The design and operation of the machine shall in no way contaminate the container of the finished product placed therein. New or replacement equipment shall comply with the 3A Sanitary Standards for Equipment for Packaging Frozen Desserts and Cottage Cheese.

QUALITY SPECIFICATIONS FOR RAW MATERIAL

§ 58.627 Milk and dairy products.

To produce ice cream and related products the raw milk and cream shall meet the quality requirements as prescribed in §§ 58.132 through 58.138, except that only commingled milk and cream meeting the bacteriological requirements of No. 1 shall be used.

§ 58.628 Sweetening agents.

Sweetening agents shall be clean and wholesome and consist of one or more of the approved sweeteners listed in § 58.605.

§ 58.629 Flavoring agents.

Flavoring agents either natural or artificial shall be wholesome and free from undesirable flavors. They must impart the desired characteristic to the finished product. Flavoring agents shall be one or more of those approved in § 58.605.

§ 58.630 Stabilizers.

Stabilizers shall be clean and wholesome and consist of one or more of those approved in § 58.605.

§ 58.631 Emulsifiers.

Emulsifiers shall be clean and wholesome and consist of one or more of those approved in § 58.605.

§ 58.632 Acid.

Acids used in sherbet shall be wholesome and of food grade quality and consist of one or more of those approved in § 58.605.

§ 58.633 Color.

Coloring used for ice cream and related products shall be those certified by the U.S. Food and Drug Administration as safe for human consumption.

OPERATIONS AND OPERATING PROCEDURES

§ 58.634 Assembling and combining mix ingredients.

The assembling and combining of mix ingredients for processing shall be in accordance with clean and sanitary methods and shall be consistent with good commercial practices. All raw materials shall be subjected to inspection for quality and condition prior to being combined and processed into the finished mix. All necessary precautions shall be taken to prevent the contamination of any raw material or the finished mix with any foreign substance.

§ 58.635 Pasteurization of the mix.

Every particle of the mix, except added flavoring ingredients, shall be pasteurized at not less than 155° F. and held at that temperature for 30 minutes or for 175° F. for 25 seconds; or it may be pasteurized by any other equivalent temperature and holding time which will assure adequate pasteurization.

§ 58.636 Homogenization.

Homogenization of the pasteurized mix shall be accomplished to effectively reduce the size of the milkfat globules and evenly disperse them throughout the mix.

§ 58.637 Cooling the mix.

The mix shall be immediately cooled to a temperature of 45° F. or lower, and stored at this temperature until further processing begins.

§ 58.638 Freezing the mix.

After the mix enters the freezer, it shall be frozen as rapidly as possible to assure the formation of minute crystals. Proper adjustment of rate of flow, refrigerant and air pressure controls shall be achieved to assure correct overrun and consistency of the product for packaging and further freezing.

§ 58.639 Addition of flavor.

The addition of flavoring ingredients to semi-frozen mix just prior to packaging shall be performed in a clean and sanitary manner. Care shall be taken to insure the flavor injection equipment has been properly cleaned and sanitized prior to use and that the flavor ingredients are of good quality and wholesome.

§ 58.640 Packaging.

The packaging of the semifrozen product shall be done by means which will in no way contaminate the container or the product. When single service containers and lids are used, they shall be of good construction and protect the finished product. Containers used for frozen products shall be stored and handled in a sanitary manner so as to protect them from dust and bacterial contamination.

§ 58.641 Hardening and storage.

Immediately after the semifrozen product is placed in its intended container it shall be placed in a hardening tunnel or hardening room to continue the freezing process. Rapid freezing to 0° to −15° F is desirable to produce a good textured product.

§ 58.642 Quality control tests.

All mix ingredients shall be subject to inspection for quality and condition throughout each processing operation. Quality control tests shall be made on flow line samples as often as necessary to check the effectiveness of processing and sanitation and as an aid in correcting deficiencies. Routine analysis shall be made on raw materials and finished products to assure adequate composition, weight or volume control.

§ 58.643 Frequency of sampling.

(a) *Microbiological.* Representative samples shall be taken from each type of mix, and for the finished frozen product one sample from each flavor made.

(b) *Composition.* Representative samples shall be tested for fat and solids-not-fat on each type of mix manufactured. Spot checks shall be made on the finished products as often as is necessary to assure compliance with composition standards.

(c) *Weight or volume control.* Representative samples of the packaged products shall be checked during the packaging operation to assure compliance with the stated volume on the container as well as weight and overrun requirements.

§ 58.644 Test methods.

(a) *Microbiological.* Microbiological determinations shall be made in accordance with the methods described in the latest edition of Standard Methods for the Examination of Dairy Products.

(b) *Chemical.* Chemical analysis shall be made in accordance with the methods described in the latest edition of Official Methods of Analysis of the Association of Official Analytical Chemists, the latest edition of Standard Methods, or by other methods giving equivalent results.

§ 58.645 General identification.

The various types of frozen desserts shall be packaged and labeled in accordance with the applicable regulations of the Food and Drug Administration.

REQUIREMENTS FOR FINISHED PRODUCTS BEARING USDA OFFICIAL IDENTIFICATION

§ 58.646 Official identification.

(a) Only ice cream and related products manufactured and packaged in accordance with the requirements of this part and with the applicable requirements in Subpart A of this part which have been officially inspected in process and found to be in compliance with these requirements may be identified with the official USDA Quality Approved Inspection Shield.

(b) Dairy products used in the manufacture of frozen desserts for which there are U.S. grades established (nonfat dry milk, whole milk, buttermilk and whey) shall be U.S. Extra Grade or better, and in the case of unsalted butter, shall be no lower than U.S. Grade A. Dairy products for which there are not USDA grade shall meet the applicable requirements of this part which permit such product to bear the USDA Quality Approved Inspection Shield.

§ 58.647 Composition requirements for ice cream.

See § 58.605(a).

§ 58.648 Microbiological requirements for ice cream.

The finished product shall contain not more than 50,000 bacteria per gram as determined by the standard plate count, and shall contain not more than 10 coliform organisms per gram for plain and not more than 20 coliform per gram in chocolate, fruit, nut or other flavors in in three out of five samples.

§ 58.649 Physical requirements for ice cream.

(a) *Flavor.* The flavor of the finished ice cream shall be pleasing and desirable, and characteristic of the fresh milk and cream and the particular flavoring used.

(b) *Body and texture.* The body shall be firm, have substance and readily melt to a creamy consistency when exposed to room temperatures; the texture shall be fine, smooth, and have the appearance of creaminess throughout.

(c) *Color.* The color shall be attractive, pleasing, uniform and characteristic of the flavor represented.

§ 58.650 Requirements for frozen custard.

The same requirements apply as for ice cream except plain frozen custard shall have a minimum egg yolk solids content of 1.4 percent, and 1.12 percent when fruits, nuts and other such ingredients are used for flavoring.

§ 58.651 Requirements for ice milk.

The requirements are the same as for ice cream except: (a) The minimum milk fat content shall be 2 percent by weight and the maximum milk fat content 7 percent by weight, (b) the total milk solids content shall be no less than 11 percent by weight, (c) the minimum total food solids weight per gallon shall be 1.3 pounds, (d) no reduction in the standards are permitted when fruits, nuts and other such ingredients are used for flavoring.

§ 58.652 Composition requirements for sherbet.

See § 58.605(d).

§ 58.653 Microbiological requirements for sherbet.

The finished product shall contain not more than 50,000 bacteria per gram as determined by the standard plate count and shall contain not more than 10 coliform organisms per gram in three out of five samples.

§ 58.654 Physical requirements for sherbet.

(a) *Flavor.* The flavor of the finished sherbet shall be pleasing and desirable and characteristic of the particular flavoring used and shall impart a sweet yet tart sensation.

(b) *Body and texture.* The body shall be firm, compact, somwhat chewy and readily melt to an even syrupy consistency at room temperatures; the texture shall be smooth but not as fine as in ice cream and shall be even throughout.

(c) *Color.* The color shall be attractive, pleasing, uniform and characteristic of the flavor represented.

SUPPLEMENTAL SPECIFICATIONS FOR PLANTS MANUFACTURING, PROCESSING AND PACKAGING PASTEURIZED PROCESS CHEESE AND RELATED PRODUCTS

DEFINITIONS

§ 58.705 Meaning of words.

(a) *Pasteurized process cheese and related products.* Pasteurized process cheese and related products are the foods which conform to the applicable provisions of Part 19, Title 21, §§ 19.750 through 19.790,[1] "Definitions and Standards of Identity for Cheese and Cheese Products," Food and Drug Administration.

(b) *Blend set up.* The trade term for a particular group of vat lots of cheese selected to form a blend based upon their combined ability to impart the desired characteristics to a pasteurized process cheese product.

(c) *Cooker batch.* The amount of cheese and added optional ingredients placed into a cooker at one time, heated to pasteurization temperature, and held for the required length of time.

EQUIPMENT AND UTENSILS

§ 58.706 General construction repair and installation.

The equipment and utensils used for the handling and processing of cheese products shall be as specified in § 58.128 of this subpart. In addition, for certain other equipment the following requirements shall be met.

§ 58.707 Conveyors.

Conveyors shall be constructed of material which can be properly cleaned, will not rust, or otherwise contaminate the cheese, and shall be maintained in good repair.

§ 58.708 Grinders or shredders.

The grinders or shredders used in the preparation of the trimmed and cleaned cheese shall be of corrosion-resistant material, and of such construction as to prevent contamination of the cheese and to allow thorough cleaning of all parts and product contact surfaces.

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[1] See footnote at § 58.405.

§ 58.709 Cookers.

The cookers shall be the steam jacketed or direct steam type. They shall be constructed of stainless steel or other equally corrosion-resistant material. All product contact surfaces shall be readily accessible for cleaning. Each cooker shall be equipped with an indicating thermometer, and shall be equipped with a temperature recording device. The recording thermometer stem may be placed in the cooker if satisfactory time charts are obtained, if not, the stem shall be placed in the hotwell or filler hopper. Steam check valves on direct steam type cookers shall be mounted flush with cooker wall, be constructed of stainless steel and designed to prevent the backup of product into the steam line, or the steam line shall be constructed of stainless steel pipes and fittings which can be readily cleaned. If direct steam is applied to the product only culinary steam shall be used (see § 58.127(d)).

§ 58.710 Fillers.

A strainer should be installed between the cooker and the filler. The hoppers of all filters shall be covered but the cover may have sight ports. If necessary, the hopper may have an agitator to prevent buildup on side wall. The filler valves and head shall be kept in good repair and capable of accurate measurements. Product contact surfaces shall be of stainless steel or other corrosion resistant material.

QUALITY SPECIFICATIONS FOR RAW MATERIAL

§ 58.711 Cheddar, colby, washed or soaked curd, granular or stirred curd cheese.

Cheese, used in the manufacture of pasteurized process cheese products should possess a pleasing and desirable taste and odor consistent with the age of the cheese; should have body and texture characteristics which will impart the desired body and texture characteristics in the finished product; and should possess finish and appearance characteristics which will permit removal of all packaging material and surface defects. The cheese should at least meet the requirements equivalent to U.S. Standard Grade for Bulk American Cheese for Manufacturing provided the quantity of the cheese with any one defect as listed for U.S. Standard Grade is limited to assure a satisfactory finished product.

§ 58.712 Swiss.

Swiss cheese used in the manufacture of pasteurized process cheese and related products should be equivalent to U.S. Grade B or better, except that the cheese may be blind or possess finish characteristics which do not impair the interior quality.

§ 58.713 Gruyere.

Gruyere cheese used in the manufacture of process cheese and related products should be of good wholesome quality and except for smaller eyes and sharper flavor shall meet the same requirements as for Swiss cheese.

§ 58.714 Cream cheese, Neufchatel cheese.

These cheeses when mixed with other foods, or used for spreads and dips should possess a fresh, pleasing and desirable flavor.

§ 58.715 Cream plastic cream and anhydrous milkfat.

These food products shall be pasteurized, sweet, have a pleasing and desirable flavor and be free from objectionable flavors, and shall be obtained from milk which complies with the quality requirements as specified in §§ 58.132 through 58.138 of this subpart.

§ 58.716 Nonfat dry milk.

Nonfat dry milk used in cheese products should meet the requirements equivalent to U.S. Extra Grade except that the moisture content may be in excess of that specified for the particular grade.

§ 58.717 Whey.

Whey used in cheese products should meet the requirements equivalent to USDA Extra Grade except that the moisture requirement for dry whey may be waived.

§ 58.718 Flavor ingredients.

Flavor ingredients used in process cheese and related products shall be those permitted by the Food and Drug Standards of Identity, and in no way deleterious to the quality or flavor of the finished product. In the case of bulky flavoring ingredients such as pimento, the particles should be, to at least a reasonable degree, uniform in size, shape and consistency. The individual types of flavoring materials should be uniform in color and should impart the characteristic flavor desired in the finished product.

§ 58.719 Coloring.

Coloring shall be Annatto or any other cheese or butter color which is approved by the Food and Drug Administration.

§ 58.720 Acidifying agents.

Acidifying agents if used shall be those permitted by the Food and Drug Administration for the specific pasteurized process cheese product.

§ 58.721 Salt.

Salt shall be free flowing, white refined sodium chloride and shall meet the requirements of The Food Chemical Codex.

§ 58.722 Emulsifying agents.

Emulsifying agents shall be those permitted by the Food and Drug Administration for the specific pasteurized process cheese product, and shall be free from extraneous material.

OPERATIONS AND OPERATING PROCEDURES

§ 58.723 Basis for selecting cheese for processing.

A representative sample shall have been examined to determine fat and moisture content. One sample unit from each vat of cheese shall have been examined to determine the suitability of the vat for use in process cheese products in accordance with the flavor, body and texture characteristics permitted in §§ 58.711 through 58.714 as applicable, and to determine the characteristics it will contribute to the finished product when blended with other cheese. The cheese included in each blend shall be selected on the basis of the desirable qualities which will result in the desired finished product. Recook from equivalent blends may be used in an amount that will not adversely affect the finished product. Hot cheese from the filler may be added to the cooker in amounts which will not adversely affect the finished product.

§ 58.724 Blending.

To as great an extent as is practical, each vat of cheese should be divided and distributed throughout numerous cooker batches. The purpose being to minimize the preponderance and consequent influence of any one vat on the characteristics of the finished product, and to promote as much uniformity as is practical. In blending also consider the final composition requirements for fat and moisture. Quantities of salt, color, emulsifier and other allowable ingredients to be added shall be calculated and predetermined for each cooker batch.

§ 58.725 Trimming and cleaning.

The natural cheese shall be cleaned free of all non-edible portions. Paraffin and bandages as well as rind surface, mold or unclean areas or any other part which is unwholesome or unappetizing shall be removed.

§ 58.726 Cutting and grinding.

The trimmed and cleaned cheese should be cut into sections of convenient size to be handled by the grinder or shredder. The grinding and mixing of the blended lots of cheese should be done in such a manner as to insure a homogeneous mixture throughout the batch.

§ 58.727 Adding optional ingredients.

As each batch is added to the cooker, the predetermined amounts of salt, emulsifiers, color, or other allowable optional ingredients shall be added. However, a special blending vat may be used to mix the ground cheese and other ingredients before they enter the cooker to provide composition control.

§ 58.728 Cooking the batch.

Each batch of cheese within the cooker, including the optional ingredients, shall be thoroughly commingled and the contents pasteurized at a temperature of at least 158° F. and held at that temperature for not less than 30 seconds or any other equally effective combination of time and temperature approved by the Administrator. Care shall be taken to prevent the entrance of cheese particles or ingredients after the cooker batch of cheese has reached the final heating temperature. After holding for the required period of time, the hot cheese shall be emptied from the cooker as quickly as possible.

§ 58.729 Forming containers.

Containers either lined or unlined shall be assembled and stored in a sanitary manner to prevent contamination. The handling of containers by filler crews should be done with extreme care and observance of personal cleanliness. Preforming and assembling of pouch liners and containers shall be kept to a minimum and the supply rotated to limit the length of time exposed to possible contamination prior to filling.

§ 58.730 Filling containers.

Hot fluid cheese from the cookers may be held in hotwells or hoppers to assure a constant and even supply of processed cheese to the filler or slice former. Filler valves shall effectively measure the desired amount of product into the pouch or container in a sanitary manner and shall cut off sharply without drip or drag of cheese across the opening. An effective system shall be used to maintain accurate and precise weight control. Damaged or unsatisfactory packages shall be removed from production, and the cheese may be salvaged into sanitary containers, and added back to cookers.

§ 58.731 Closing and sealing containers.

Pouches, liners, or containers having product contact surfaces, after filling shall be folded or closed and sealed in a sanitary manner, preferably by mechanical means, so as to assure against contamination. Each container in addition to other required labeling shall be coded in such a manner as to be easily identified as to date of manufacture by lot or sublot number.

§ 58.732 Cooling the packaged cheese.

After the containers are filled they shall be stacked, or cased and stacked in such a manner as to prevent breaking of seals due to excessive bulging and to allow immediate progressive cooling of the individual containers of cheese. As a minimum the cheese should be cooled to a temperature of 100° F. or lower within 24 hours after filling. The temperature of the cheese should be reduced further, before being shipped or if storage is intended.

§ 58.733 Quality control tests.

(a) *Chemical analyses.* The following chemical analyses shall be performed in accordance with the appropriate edition of the Official Methods of Analysis of the AOAC as specified in the appropriate Standards of Identity or in accordance with methods that give equivalent results.

(1) *Cheese.* A representative sample of cheese used in the manufacture of pasteurized process cheese products shall have been tested prior to usage to determine its moisture and fat content.

(2) *Pasteurized process cheese products.* As many samples shall be taken of the finished product direct from the cooker, hopper, filler, or other location as is necessary to assure compliance with composition requirements. Spot checks should be made on samples from the cooker as frequently as is necessary to indicate pasteurization by means of the phosphatase test, as well as any other tests necessary to assure good quality control.

(b) *Examination of physical characteristics.* As many samples shall be taken as is necessary to assure meeting the required physical characteristics of the products. Representative samples shall be taken from production for examination of physical characteristics. The samples shall be examined at approximately 70° F. the first day of operation after the date of processing for the following characteristics: (1) Finish and appearance, (2) flavor,

(3) color, (4) body and texture, and (5) slicing or spreading properties.

(c) *Keeping quality.* During processing or preferably from the cooled stock select sufficient samples at random from the production run. The samples should be stored at approximately 50° F. for 3 months for evaluation of physical characteristics as in paragraph (b) of this section. Additional samples may be selected and held at different temperatures or time.

(d) *Weight control.* During the filling operation as many samples shall be randomly selected and weighed from each production run as is necessary to assure accuracy of the net weight established for the finished products.

REQUIREMENTS FOR PROCESSED CHEESE PRODUCTS BEARING USDA OFFICIAL IDENTIFICATION

§ 58.734 Official identification.

Only process cheese products manufactured and packaged in accordance with the requirements of this part and with the applicable requirements in Subpart A of this part which have been officially inspected in process and found to be in compliance with these requirements may be identified with official USDA Quality Approved Inspection Shield.

§ 58.735 Quality specifications for raw materials.

(a) *Cheddar colby, washed or soaked curd, granular or stirred curd cheese.* Cheese, used in the manufacture of pasteurized process cheese products which are identified with the USDA official identification shall possess a pleasing and desirable taste and odor consistent with the age of the cheese; shall have body and texture characteristics which will impart the desired body and texture characteristics in the finished product; and shall possess finish and appearance characteristics which will permit removal of all packaging material and surface defects. The cheese shall at least meet the requirements of U.S. Standard Grade for Bulk American Cheese for Manufacturing provided the quantity of the cheese with any one defect as listed for U.S. Standard Grade is limited, to assure compliance with the specifications of the finished product.

(b) *Swiss.* Swiss cheese used in the manufacture of pasteurized process cheese and related products bearing official identification shall be U.S. Grade B or better, except that the cheese may be blind or possess finish characteristics which do not impair the interior quality.

(c) *Gruyere.* Gruyere cheese used in the manufacture of process cheese and related products shall be of good wholesome quality and except for smaller eyes and sharper flavor shall meet the same requirements as for Swiss cheese.

(d) *Cream cheese, Neufchatel cheese.* Mixed with other foods, or used for spreads and dips shall possess a fresh, pleasing and desirable flavor.

(e) *Cream, plastic cream and anhydrous milkfat.* These food products shall be pasteurized, sweet, have a pleasing and desirable flavor and be free from objectionable flavors, and shall be obtained from milk which complies with the quality requirements as specified in § 58.132 of this subpart.

(f) *Nonfat dry milk.* Nonfat dry milk used in officially identified cheese products shall meet the requirements of U.S. Extra Grade except that the moisture content may be in excess of that specified for the particular grade.

(g) *Whey.* Condensed or dry whey used in officially identified cheese products shall meet the requirements for USDA Extra Grade except that the moisture requirement for dry whey may be waived.

(h) *Flavor ingredients.* Flavor ingredients used in process cheese and related products shall be those permitted by the Food and Drug Standards of Identity, and in no way deleterious to the quality or flavor of the finished product. In the case of bulky flavoring ingredients such as pimento, the particles shall be, to at least a reasonable degree, uniform in size, shape and consistency. The individual types of flavoring materials shall be uniform in color and shall impart the characteristic flavor desired in the finished product.

(i) *Other ingredients.* For coloring, acidifying agents, salt, and emulsifying agents see §§ 58.719, 58.720, 58.721 and 58.722.

QUALITY SPECIFICATIONS FOR FINISHED PRODUCTS

§ 58.736 Pasteurized process cheese.

Shall conform to the provisions of the Definitions and Standards of Identity for Pasteurized Process Cheese and Related Products, Food and Drug Administration. The average age of the cheese in the blend shall be such that the desired flavor, body and texture will be achieved in the finished product. The quality of pasteurized process cheese shall be determined on the basis of flavor, body and texture, color, and finish and appearance.

(a) *Flavor.* Has a pleasing and desirable mild cheese taste and odor characteristic of the variety or varieties of cheese ingredients used. If additional optional ingredients are used they shall be incorporated in accordance with good commercial practices and the flavor imparted shall be pleasing and desirable. May have a slight cooked or very slight acid or emulsifier flavor; is free from any undesirable tastes and odors.

(b) *Body and texture.* Shall have a medium-firm, smooth and velvety body free from uncooked cheese particles. Is resilient and not tough, brittle, short, weak, or sticky. It shall be free from pin holes or openings except those caused by trapped steam. The cheese shall slice freely, and shall not stick to the knife or break when cut into approximately ⅛ inch slices. If in sliced form, the slices shall separate readily.

(c) *Color.* May be colored or uncolored but shall be uniform throughout. If colored it shall be bright and not be dull or faded. To promote uniformity and a common reference to describe color use the color designations as depicted by the National Cheese Institute standard color guide for cheese.

(d) *Finish and appearance.* The wrapper may be slightly wrinkled but shall envelop the cheese, adhere closely to the surface, and be completely sealed and not broken or soiled.

§ 58.737 Pasteurized process cheese food.

Shall conform to the provisions of the Definitions and Standards of Identity for Pasteurized Process Cheese Food and Related Products, Food and Drug Administration. The average age of the cheese in the blend shall be such that the desired flavor, body and texture will be achieved in the finished product. The quality of pasteurized process cheese food shall be determined on the basis of flavor, body and texture, color, and finish and appearance.

(a) *Flavor.* Has a pleasing and desirable mild cheese taste and odor characteristic of the variety or varieties of cheese ingredients used. If additional optional ingredients are used they shall be incorporated in accordance with good commercial practices and the flavor imparted shall be pleasing and desirable. May have a slight cooked or very slight acid or emulsifier flavors; is free from any undesirable tastes and odors.

(b) *Body and texture.* Shall have a reasonably medium-firm smooth and velvety body and free from uncooked cheese particles. Is resilient and not tough, brittle, short or sticky. It shall be free from pin holes or openings except those caused by trapped steam. The product shall slice freely with only a slight amount of sticking and shall not break when cut into approximately ⅛ inch slices. If in sliced form, the slices shall separate readily.

(c) *Color.* May be colored or uncolored but shall be uniform throughout. If colored it shall be bright and not be dull or faded. To promote uniformity and a common reference to describe color use the color designations as depicted by the National Cheese Institute standard color guide for cheese.

(d) *Finish and appearance.* The wrapper may be slightly wrinkled but shall envelop the cheese, adhere closely to the surface, and be completely sealed and not broken or soiled.

§ 58.738 Pasteurized process cheese spread and related products.

Shall conform to the applicable provisions of the Definitions and Standards of Identity for Pasteurized Process Cheese Spreads, Food and Drug Administration. The pH of pasteurized process cheese spreads shall not be below 4.0.

The quality of pasteurized process cheese spreads shall be determined on the basis of flavor, body and texture, color, and finish and appearance.

(a) *Flavor.* Has a pleasing and desirable cheese taste and odor characteristic of the variety or varieties of cheese ingredients used. If additional optional ingredients are used they shall be incorporated in accordance with good commercial practices and the flavor imparted shall be pleasing and desirable. May have a slight cooked, acid, or emulsifier flavor; is free from any undesirable tastes and odors.

(b) *Body and texture.* Shall have a smooth body free from uncooked cheese particles and when packaged shall form into a homogeneous plastic mass, and be free from pin holes or openings except those caused by trapped steam. Product made for slicing shall slice freely when cut into approximately ⅛ inch slices with only a slight amount of sticking. Product made for spreading shall be spreadable at approximately 70° F.

(c) *Color.* May be colored or uncolored but shall be uniform throughout. If colored it shall be bright and not be dull or faded. To promote uniformity and a common reference to describe color the color designations as depicted by the National Cheese Institute standard color guide for cheese may be used.

(d) *Finish and appearance.* Wrappers, if used, may be slightly wrinkled but shall envelop the cheese, adhere closely to the surface, and be completely sealed and not broken or soiled. Other containers made of suitable materials shall be completely filled, sealed and not broken or soiled.

SUPPLEMENTAL SPECIFICATIONS FOR PLANTS MANUFACTURING, PROCESSING, AND PACKAGING WHEY, WHEY PRODUCTS AND LACTOSE

DEFINITIONS

§ 58.805 Meaning of words.

For the purpose of the regulations in this subpart, words in the singular form shall be deemed to impart the plural and vice versa, as the case may demand. Unless the context otherwise requires, the following terms shall have the following meaning:

(a) *Whey.* "Whey" is the fluid obtained by separating the coagulum from milk, cream, and/or skim milk in cheesemaking. The acidity of the whey may be adjusted by the addition of safe and suitable pH adjusting ingredients. Salt drippings (moisture removed from cheese curd as a result of salting) shall not be collected for further processing as whey.

(b) *Dry Whey.* "Dry Whey" is the product resulting from drying fresh whey which has been pasteurized and to which nothing has been added as a preservative. It contains all constituents, except moisture, in the same relative proportions as in the whey.

(c) *Dry Sweet Whey.* Dry whey not over 0.16 percent titratable acidity on a reconstituted basis.

(d) *Dry Whey—% Titratable Acidity.* Dry whey over 0.16 percent, but below 0.35 percent titratable acidity on a reconstituted basis. The blank being filled with the actual acidity.

(e) *Dry Acid Whey.* Dry whey with 0.35 percent or higher titratable acidity on a reconstituted basis.

(f) *Modified Whey Products:*

(1) Partially demineralized whey,

(2) Partially delactosed whey,

(3) Demineralized whey, and

(4) Whey protein concentrate-products defined by regulations of the Food and Drug Administration.

(g) *Lactose (milk sugar).* That food product defined by regulations of the Food and Drug Administration.

[40 FR 47911, Oct. 10, 1975. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 1257, Jan. 6, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

ROOMS AND COMPARTMENTS

§ 58.806 General.

Dry storage of product, packaging room for bulk product, and hopper or dump room shall meet the requirements of §§ 58.210 through 58.212 as applicable.

EQUIPMENT AND UTENSILS

§ 58.807 General construction, repair and installation.

All equipment and utensils necessary for the manufacture of whey, whey products and lactose shall meet the same general requirements for materials and construction as outlined in §§ 58.128 and 58.215 through 58.230 as applicable, except for the following:

(a) *Modified Whey Products.* Equipment for whey fractionation, such as ultrafiltration, reverse osmosis, gel filtration, and electrodialysis shall be constructed in accordance with 3-A sanitary design principles, except where engineering requirements preclude strict adherence to such standards. Materials used for product contact surfaces shall meet applicable 3-A Sanitary Standards or Food and Drug Administration requirements. All equipment shall be of sanitary construction and readily cleanable.

(b) *Lactose.* Equipment used in the further processing of lactose following its separation from whey shall have smooth surfaces, be cleanable, free from cracks or crevices, readily accessible for inspection and shall be constructed of non-toxic material meeting applicable Food and Drug Administration requirements and under conditions of use shall be resistant to corrosion, pitting or flaking. [The use of stainless steel is optional.]

QUALITY SPECIFICATIONS FOR RAW MATERIALS

§ 58.808 Whey.

Whey for processing shall be fresh and originate from the processing of products made from milk meeting the requirements as outlined in §§ 58.132 through 58.138. Only those ingredients approved by the Food and Drug Administration may be added to the whey for processing, except when restricted by this subpart. Whey products to which approved ingredients have been added or constituents removed to alter original characteristics for processing or usage shall be labeled to meet the applicable requirements.

OPERATIONS AND OPERATING PROCEDURES

§ 58.809 Pasteurization.

(a) All fluid whey used in the manufacture of dry whey, dry whey products, modified whey products, and lactose shall be pasteurized prior to condensing. When the condensing and drying operations for dry whey take place at the same plant, the pasteurization may be located at a different point in the operation provided it will protect the quality of the finished product and not adversely affect the processing procedure.

(b) Pasteurized products transported to another plant for final processing shall be repasteurized, except that condensed whey containing 40 percent or more solids may be transported to another plant for further processing into dry whey, dry whey products or lactose without repasteurization.

(c) If whey is transferred to another plant for further processing, or if during the processing procedure unpasteurized ingredients are added (except those necessary for lactose crystallization), or processing procedures permit contamination or bacterial growth, the whey shall be repasteurized as close to the final drying operations as possible.

§ 58.810 Temperature requirements.

(a) Unless processed within 2 hours, all whey or condensed whey, except acid type whey with a titratable acidity of 0.40 percent or above, or a pH of 4.6 or below, shall be cooled to 45° F or less, or heated to 145° F or higher. Other temperatures may be used when essential for the technology of the process, such as lactose crystallization and membrane whey separation processes, when the quality and wholesomeness of the product is not impaired.

(b) Recording thermometers shall be required and so located to assure that the cooling or heating requirements in paragraph (a) of this section are met.

§ 58.811 General.

The operating procedures as contained in §§ 58.237 through 58.244, 58.246, 58.247, and 58.443 (a) and (b) shall be followed as applicable.

§ 58.812 Methods of official sample analysis.

Samples shall be tested according to the applicable methods of laboratory analysis contained in DA Instruction 918-109-2 and 918-109-3 as issued by the USDA, Agricultural Marketing Service, Poultry and Dairy Quality Division.

(60 Stat. 1087, 7 U.S.C. 1621 et seq.; 84 Stat. 1620, 21 U.S.C. 1031 et seq.)

[40 FR 47911, Oct. 10, 1975. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

REQUIREMENTS FOR FINISHED PRODUCTS BEARING USDA OFFICIAL IDENTIFICATION

§ 58.813 Dry Whey.

The quality requirements for dry whey shall be in accordance with the U.S. Standards for Dry Whey.

SUPPLEMENTAL SPECIFICATIONS FOR PLANTS MANUFACTURING, PROCESSING, AND PACKAGING EVAPORATED, AND CONDENSED MILK OR ULTRA PASTEURIZED PRODUCTS

DEFINITIONS

§ 58.905 Meaning of words.

For the purpose of the regulations in this subpart, words in the singular form shall be deemed to impart the plural and vice versa as the case may demand. Unless the context otherwise requires, the following terms shall have the following meaning:

(a) *Evaporated milk.* The liquid food made by evaporating sweet milk to such point that it contains not less than 7.5 percent of milkfat and not less than 25.5 percent of the total milk solids. The finished product shall conform to the requirements of § 18.520 "Definitions and Standards of Identity for Milk and Cream," Food and Drug Administration (21 CFR 18.520).[1]

(b) *Concentrated milk, plain condensed milk.* The product which conforms to the standard of identity for evaporated milk except that it is not processed by heat to prevent spoilage. The container may be unsealed, and stabilizing ingredients are not used. The finished product shall conform to the requirements of § 18.525 "Definitions and Standards of Identity for Milk and Cream," Food and Drug Administration (21 CFR 18.525).[1]

(c) *Sweetened condensed milk.* The liquid or semi-liquid food made by evaporating a mixture of sweet milk and refined sugar (sucrose) or any combination of refined sugar (sucrose) and refined corn sugar (dextrose) to such point that the finished sweetened condensed milk contains not less than 28.0 percent of total milk solids and not less than 8.5 percent of milkfat. The quantity of sugar used is sufficient to prevent spoilage. The finished product shall conform to the requirements of §§ 18.530 or 18.535, respectively, "Definitions and Standards of Identity for Milk and Cream," Food and Drug Administration (21 CFR 18.530 and 18.535).[1]

(d) *Ultra-pasteurized.* The product shall have been thermally processed at or above 280° F for at least 2 seconds, either before or after packaging, so as to produce a product which has an extended shelf life under refrigerated conditions.

EQUIPMENT AND UTENSILS

§ 58.912 General construction, repair and installation.

The equipment and utensils used for processing and packaging evaporated, condensed or ultra pasteurized dairy products shall be as specified in § 58.128. In addition for certain other equipment, the following requirements shall be met.

§ 58.913 Evaporators and vacuum pans.

All equipment used in the removal of moisture from milk or milk products for the purpose of concentrating the solids should comply with the requirements of the 3-A Sanitary Standards for Milk and Milk Products Evaporators and Vacuum Pans.

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[1] 21 CFR Part 18 was redesignated as Part 131 at 42 FR 14302, Mar. 15, 1977.

§ 58.914 Fillers.

Both gravity and vacuum type fillers shall be of sanitary design and all product contact surfaces, if metal, shall be made of stainless steel or equally corrosion-resistant material; except that, certain evaporated milk fillers having brass parts may be approved if free from corroded surfaces and kept in good repair. Nonmetallic product contact surfaces shall comply with the requirements for 3-A Sanitary Standards for Plastic, and Rubber and Rubber-Like Materials. Fillers shall be designed so that they in no way will contaminate or detract from the quality of the product being packaged.

§ 58.915 Batch or continuous in-container thermal processing equipment.

Shall comply with Title 21, Chapter 1, Subpart 128b—"Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers." The equipment shall be maintained in such a manner as to assure control of the length of time of processing, and to minimize the number of damaged containers.

§ 58.916 Homogenizer.

Homogenizers where applicable shall be used to reduce the size of the fat particles and to evenly disperse them in the product. Homogenizers shall comply with the applicable 3-A Sanitary Standards.

OPERATIONS AND OPERATING PROCEDURES

§ 58.917 General.

There are many operations and procedures used in the preparation of evaporated, condensed and ultra pasteurized dairy products that are similar, therefore, the following general requirements will apply when such operations or procedures are used.

§ 58.918 Standardization.

The standardization of the product to obtain a finished product of a given composition shall be accomplished by the addition or removal of milkfat, milk solids-not-fat and/or water. The ingredients added to accomplish the desired composition shall be of the same hygenic quality as the product being standardized.

§ 58.919 Pre-heat, pasteurization.

When pasteurization is intended or required by either the vat method, HTST method, or by the HHST method it shall be accomplished by systems and equipment meeting the requirements outlined in § 58.128. Preheat temperatures prior to ultra pasteurization will be those that have the most favorable effect on the finished product.

§ 58.920 Homogenization.

Where applicable concentrated products shall be homogenized for the purpose of dispersing the fat throughout the product. The temperature of the product at time of homogenization and the pressure at which homogenization is accomplished will be that which accomplishes the most desired results in the finished products.

§ 58.921 Concentration.

Concentrating by evaporation shall be accomplished with a minimum of chemical change in the product. The equipment and systems used shall in no way contaminate or adversely affect the desirability of the finished product.

§ 58.922 Thermal processing.

The destruction of living organisms shall be performed in one of the following methods: (a) The complete in-container method, by heating the container and contents to a range of 212° F to 280° F for a sufficient time; (b) by a continuous flow process at or above 280° F for at least 2 seconds, then packaged aseptically; (c) the product is first processed according to methods as in paragraph (b) of this section, then packaged and given further heat treatment to complete the process.

§ 58.923 Filling containers.

(a) The filling of small containers with product shall be done in a sanitary manner. The containers shall not contaminate or detract from the quality of the product in any way. After filling, the container shall be hermetically sealed.

(b) Bulk containers for the product shall be suitable and adequate to protect the product in storage or transit. The bulk container (including bulk tankers) shall be cleaned and sanitized before filling, and filled and closed in a sanitary manner.

§ 58.924 Aseptic filling.

A previously ultra pasteurized product shall be filled under conditions which prevent contamination of the product by living organisms or spores. The containers prior to being filled shall be sterilized and maintained, in a sterile condition. The containers shall be sealed in a manner that prevents contamination of the product.

§ 58.925 Sweetened condensed.

After condensing, the sweetened condensed product should be cooled rapidly to about 85° F to induce crystallization of the oversaturated lactose. When the desired crystallization is reached further cooling is resumed to 68°-70° F.

§ 58.926 Heat stability.

Prior to thermal processing of concentrated products and where stabilizers are allowed, tests should be made on the heat stability of the product to determine necessity for, and the amount of stabilizer needed. Based on the stability tests, safe and suitable stabilizers and emulsifiers may be added.

§ 58.927 Storage.

Finished products which are to be held more than 30 days should be stored at temperatures below 72° F Precautions shall be taken to prevent freezing of the product.

§ 58.928 Quality control tests.

All dairy products and other ingredients shall be subject to inspection for quality and condition throughout each processing operation. Quality control tests shall be made on flow samples as often as is necessary to check the effectiveness of processing and manufacturing and as an aid in correcting deficiencies. Routine analyses shall be made on raw materials and finished products to assure adequate composition control. For each batch or production run a keeping quality test shall be made to determine product stability.

§ 58.929 Frequency of sampling for quality control.

(a) *Composition*. Sampling and testing for composition shall be made on batches of product as often as is necessary to control composition. On continuous production runs, enough samples shall be taken throughout the run to adequately assure composition requirements.

(b) *Other chemical analysis or physical analysis*. Such tests shall be performed as often as is necessary to assure compliance with standards, specifications or contract requirements.

(c) *Weight or volume control*. Representative samples of the packaged products shall be checked during the filling operation to assure compliance with the stated net weight or volume on the container.

(d) *Keeping quality and stability*. A minimum of one sample from each batch of product or one representative sample per hour from a continuous production run shall be taken. For continuous runs, samples shall be taken at the start, each hour, and at the end of the run. Samples should also be taken after resumption of processing following an interruption in continuous operation. Each sample shall be incubated at 90° F to 100° F for seven days.

§ 58.930 Official test methods.

(a) *Chemical*. Chemical analysis, except where otherwise prescribed herein, shall be made in accordance with the methods described in the latest edition of Official Methods of Analysis of the AOAC or by the latest edition of Standard Methods for the Examination of Dairy Products.

(b) *Microbiological*. Microbiological determinations shall be made in accordance with the methods described in the latest edition of Standard Methods for the Examination of Dairy Products.

§ 58.931 General identification.

Bulk shipping containers shall be legibly marked with the name of the product, net weight, name and address of manufacturer, processor or distributor, a lot number and coded date of manufacture. Consumer sized containers shall meet the applicable regulations of the Food and Drug Administration.

QUALITY SPECIFICATIONS FOR RAW MATERIALS

§ 58.932 Milk.

The raw milk shall meet the requirements as outlined in §§ 58.132 through 58.138. Unless processed within two hours after being received, it shall be cooled to, and held at a temperature of 45° F or lower until processed.

§ 58.933 Stabilizers.

Shall be those permitted by the Food and Drug Administration's "Standards of Identity" as optional ingredients for specific products. Stabilizers shall be free from extraneous material, be of food grade quality and not be in violation of the Federal Food, Drug and Cosmetic Act.

§ 58.934 Sugars.

Any sugar used in the manufacture of sweetened condensed or sterilized milk products shall be refined, and of food grade quality.

§ 58.935 Chocolate and cocoa.

Such products used as flavor ingredients shall meet the requirements of the Food and Drug Administration, "Definitions and Standards of Identity for Cocoa Products."

REQUIREMENTS FOR FINISHED PRODUCTS BEARING USDA OFFICIAL IDENTIFICATION

§ 58.936 Milk.

To process and package evaporated and condensed milk of ultra-pasteurized dairy products eligible for official identification with the USDA Quality Approved Inspection Shield the raw incoming milk shall meet the requirements as outlined in §§ 58.132 through 58.136. Unless processed within two hours after being received, it shall be cooled to, and held at a temperature of 45° F or lower until processed.

§ 58.937 Physical requirements for evaporated milk.

(a) *Flavor.* The product shall possess a sweet, pleasing and desirable flavor with not more than a definite cooked flavor. It shall be free from scorched, oxidized or other objectionable tastes and odors.

(b) *Body and texture.* The product shall be of uniform consistency and appearance. It shall be smooth and free from fat separation, lumps, clots, gel formation, coarse milk solids precipitate or sedimentation and extraneous material.

(c) *Color.* The color shall be of a natural white or light cream.

(d) *Degree of burn-on.* The interior walls of the container shall not show excessive burn-on of product (product fused to more than 75 percent of the inner surface of the can).

(e) *Keeping quality.* Samples incubated at 90–100° F shall show no sensory, chemical or microbiological deterioration after seven days.

§ 58.938 Physical requirements and microbiological limits for sweetened condensed milk.

(a) *Flavor.* Shall be sweet, clean, and free from rancid, oxidized, scorched, fermented, stale or other objectionable tastes and odors.

(b) *Color.* Shall be white to light cream.

(c) *Texture.* Shall be smooth and uniform, free from lumps or coarse graininess. There shall not be sufficient settling of the lactose to cause a deposit on the bottom of the container.

(d) *Body.* Shall be sufficiently viscous so that the product upon being poured at room temperature piles up above the surface of that previously poured, but does not retain a definite form.

(e) *Microbiological limits.* (1) Coliforms, less than 10 per gram; (2) yeasts, less than 5 per gram; (3) molds, less than 5 per gram; (4) total plate count, less than 1,000 per gram.

(f) *Keeping quality.* Samples incubated at 90–100° F shall show no physical evidence of deterioration after seven days.

(g) *Composition.* Shall meet the minimum requirements as set forth in the "Standards of Identity for Milk and Cream," Food and Drug Administration (21 CFR 18.530).[1] In addition, the quantity of refined sugar used shall be sufficient to give a sugar-in-water ratio of not less than 61.5 percent.

(h) *Sediment.* The amount of sediment retained on a lintine disc after a sample composed of 225 grams of product dissolved in 500 ml. of 140° F water has passed through it, shall not exceed 0.10 mg. as indicated by the USDA Sediment Standard for Milk and Milk Products (7 CFR 58.2726).

Subparts C–G—[Reserved]

Subpart H—U.S. Standards for Grades of Bulk American Cheese for Manufacturing

SOURCE: 36 FR 24206, Dec. 22, 1971, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981.

DEFINITIONS

§ 58.2455 Bulk American cheese for manufacturing.

"Bulk American cheese for manufacturing" is cheese made for use in the manufacture of pasteurized process cheese products or as an ingredient in other food products. The composition requirements of the curd shall be that of the particular variety and type of cheese made. Bulk American cheese used in pasteurized process cheese or other food products shall have such defects as mold, soft spots, or salt spots removed before use.

§ 58.2456 Variety and type of cheese included.

The varieties and types of cheese included in these standards are as follows:

(a) Cheddar cheese and cheddar cheese for manufacturing shall conform to the provisions of the Definitions and Standards of Identity for Food and Food Products of the Food and Drug Administration (21 CFR 19.500 and 19.502, respectively).[1]

(b) Washed curd cheese (soaked curd cheese), and washed curd cheese for manufacturing shall conform to the provisions of the Definitions and Standards of Identity for Food and Food Products of the Food and Drug Administration (21 CFR 19.505 and 19.507, respectively).[1]

(c) Granular cheese (stirred curd cheese), and granular cheese for manufacturing shall conform to the provisions of the Definitions and Standards of Identity for Food and Food Products of the Food and Drug Administration (21 CFR 19.535 and 19.537, respectively).[1]

(d) Colby cheese and colby cheese for manufacturing shall conform to the provisions of the Definitions and Standards of Identity for Food and Food Products of the Food and Drug Administration (21 CFR 19.510 and 19.512, respectively).[1]

§ 58.2457 Types of packaging.

The following are the types of packaging for bulk American cheese for manufacturing:

(a) The cheese shall have a clean primary container in good condition, which will entirely cover the cheese and be properly closed or sealed so as to protect it from damage, contamination, or dessication.

(b) The cheese and the primary container may or may not be placed in a secondary container.

(c) If requested, the primary and/or secondary container may be inspected in accordance with the U.S. Standards for Condition of Food Containers (7 CFR Part 42).

U.S. GRADES

§ 58.2458 Nomenclature of U.S. grades.

The nomenclature of U.S. grades is as follows:

(a) U.S. Extra Grade.

(b) U.S. Standard Grade.

(c) U.S. Commercial Grade.

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[1] 21 CFR Parts 18 and 19 were redesignated as Parts 131 and 133, respectively, at 42 FR 14302, Mar. 15, 1977.

§ 58.2459 Basis for determination of U.S. grades.

(a) The U.S. grades of bulk American cheese for manufacturing shall be determined on the basis of rating the following quality factors:

(1) Flavor.

(2) Body and texture.

(b) The rating of each quality factor shall be established on the basis of the attributes present in each production lot in which the cheese may be formed. At least one production unit shall be selected at random from each production lot. No single piece of cheese, whatever its shape, shall weigh less than 100 pounds. If the cheese in a production unit is derived from more than one production lot, the grade shall be determined on the basis of the lowest grade for either lot. The cheese shall be graded no sooner than 10 days of age. The cheese shall be properly identified as to place of manufacture, variety and type, and marked to include date of manufacture, vat or production lot. The production unit(s) representative of the production lot of cheese shall be sampled and graded by taking a satisfactory plug with a standard bulk cheese trier from any surface of the cheese. The plug shall be taken at a slight angle to the surface of the cheese. The final U.S. grade shall be established on the basis of the lowest rating of any one of the quality factors.

(1) *U.S. Extra Grade.* U.S. Extra Grade bulk American cheese for manufacturing conforms to the following:

(i) *Flavor.* Is pleasing and free from undesirable flavors and odors, may possess to a very slight degree, a bitter flavor; and to a slight degree, feed, and acid flavor. See Table I.

(ii) *Body and texture.* A sample drawn from the cheese shall be firm and sufficiently compact to draw a satisfactory plug, however may appear loosely knit and open and may have two sweet holes, but shall be free of other gas holes. Therefore, it may possess the following: To a slight degree, sweet holes, coarse, short, mealy, weak; to a definite degree, curdy, and open. See Table II.

(2) *U.S. Standard Grade.* U.S. Standard Grade bulk American cheese for manufacturing conforms to the following:

(i) *Flavor.* May possess certain undesirable flavors to a limited degree; to a very slight degree, onion; to a slight degree, bitter, yeasty, malty, old milk, weedy, barny, lipase, fruity, utensil, sulfide and whey taint; to a definite degree, feed and acid. See Table I.

(ii) *Body and texture.* A plug drawn from the cheese may be loosely knit with large and connecting mechanical openings. In addition to three to four sweet holes, it may have scattered yeast holes and other scattered gas holes, however, pinny gas holes are permitted only to a very slight degree. May possess the following: To a slight degree, gassy, slitty, and corky; to a definite degree, sweet holes, coarse, short, mealy, weak, pasty, and crumbly; to a pronounced degree, curdy and open. See Table II.

(3) *U.S. Commercial Grade.* U.S. Commercial Grade bulk American cheese for manufacturing conforms to the following:

(i) *Flavor.* May possess certain undesirable flavors to a limited degree; to a very slight degree, metallic and sour; to a slight degree, onion; to a definite degree, bitter, fruity, utensil, whey taint, yeasty, malty, old milk, weedy, barny, lipase, and sulfide; to a pronounced degree, feed and acid. See Table I.

TABLE I—RATING OF FLAVOR QUALITY FACTOR

Identification of flavor attributes	U.S. Extra Grade	U.S. Standard Grade	U.S. Commercial Grade
Feed	S	D	P
Acid	S	D	P
Bitter	VS	S	D
Fruity (fermented)		S	D
Utensil		S	D
Metallic			VS
Sour			VS
Whey taint		S	D
Yeasty		S	D
Malty		S	D
Old Milk		S	D
Weedy		S	D
Onion		VS	S
Barny		S	D
Lipase		S	D
Sulfide		S	D

VS—Very Slight. S—Slight. D—Definite. P—Pronounced.

(ii) *Body and texture.* A plug drawn from the cheese may be loosely knit with large and connecting mechanical openings. In addition to having numerous sweet holes, yeast holes and other gas holes, it may have pinny gas holes to a slight degree. May possess the following defects: To a definite degree; gassy and slitty; to a pronounced degree, curdy, coarse, open, sweet holes, short, mealy, weak, pasty, crumbly, and corky. See Table II.

TABLE II—RATING OF BODY AND TEXTURE QUALITY FACTOR

Identification of body and texture attributes	U.S. Extra Grade	U.S. Standard Grade	U.S. Commercial Grade
Curdy	D	P	P
Coarse	S	D	P
Open	D	P	P
Sweet holes	S	D	P
Short	S	D	P
Mealy	S	D	P
Weak	S	D	P
Pasty		D	P
Crumbly		D	P
Gassy		S	D
Slitty		S	D
Corky		S	P
Pinny		VS	S

S—Slight. D—Definite. P—Pronounced. VS—Very Slight.

EXPLANATION OF TERMS

§ 58.2460 Explanation of terms.

(a) *General*—(1) *Variety.* A particular cheese such as cheddar cheese, washed curd cheese, colby cheese, and granular cheese.

(2) *Type.* A distinction between one or more classes of cheese in the same variety, such as cheddar and cheddar for manufacturing.

(3) *Quality factor.* A separate criterion established for each of the following: Flavor, body, and texture.

(4) *Attribute.* An inherent characteristic of the product being graded.

(5) *Production lot (vat).* The cheese manufactured from a single source within a plant during the interval between start and finish. However, the time interval varies, and each production unit must be identified as to date and order of manufacture.

(6) *Production unit (barrel or block).* A single discrete portion of a batch or continuous production output, except in instances where portions of two production lots may be contained in a single unit of either lot.

(7) *Primary container.* The immediate container in which the product is packaged and which serves to protect, preserve, and maintain the quality of the product.

(8) *Secondary container.* The container in which the product and the primary container is placed to protect and preserve them during transit or storage.

(9) *Bulk cheese trier.* A trier made of stainless steel capable of delivering a satisfactory plug approximately 10 inches long and seven-eighths inch in diameter at the top and five-eighths inch in diameter at the tip.

(b) *With respect to flavor*—(1) *Very slight.* Detected only upon very critical examination.

(2) *Slight.* Detected only upon critical examination.

(3) *Definite.* Not intense but detectable.

(4) *Pronounced.* So intense as to be easily identified.

(5) *Feed.* Feed flavors (such as alfalfa, sweet clover, silage, or similar feed) in milk carried through into the cheese.

(6) *Acid.* Sharp and puckery to the taste, characteristic of lactic acid.

(7) *Bitter.* Distasteful, similar to taste of quinine. Most frequently found in aged cheese.

(8) *Fruity.* A fermented fruit-like flavor resembling apples; generally increasing in intensity as the cheese ages.

(9) *Utensil.* A flavor that is suggestive of improper or inadequate washing and sterilization of milking machines, utensils, or factory equipment.

(10) *Metallic.* A flavor having qualities suggestive of metal, imparting a puckery sensation.

(11) *Sour.* An acidy pungent flavor resembling vinegar.

(12) *Whey-taint.* A slightly acid flavor and odor characteristic of fermented whey caused by too slow expulsion of whey from the curd.

(13) *Yeasty.* A flavor indicating yeasty fermentation.

(14) *Malty.* A distinctive, harsh flavor suggestive of malt.

(15) *Old milk.* Lacks freshness.

(16) *Weedy.* A flavor due to the use of milk which possesses a common weedy flavor. Present in cheese when cows have eaten weedy hay or grazed on common weed-infested pasture.

(17) *Onion.* This flavor is recognized by the peculiar taste and aroma suggestive of its name. Present in milk or cheese when cows have eaten onions, garlic, or leeks.

(18) *Barny.* A flavor characteristic of the odor of a cow stable.

(19) *Lipase.* A flavor suggestive of rancidity or butyric acid, sometimes associated with a bitterness.

(20) *Sulfide.* A flavor of hydrogen sulfide similar to the flavor of water with a high sulfur content.

(c) *With respect to body and texture*—(1) *Slight.* An attribute which is barely identifiable and present only to a small degree.

(2) *Definite.* An attribute which is readily identifiable and present to a substantial degree.

(3) *Pronounced.* An attribute which is markedly identifiable and present to a large degree.

(4) *Smooth.* Feels silky; not dry and coarse or rough.

(5) *Firm.* Feels solid, not soft or weak.

(6) *Waxy.* When worked between the fingers, molds well like wax.

(7) *Curdy.* Smooth but firm; when worked between the fingers is rubbery and not waxy or broken down.

(8) *Coarse.* Feels rough, dry, and sandy.

(9) *Open.* Mechanical openings that are irregular in shape and are caused by workmanship and not gas fermentation.

(10) *Sweet holes.* Spherical gas holes, glossy in appearance; usually about the size of BB shots; also referred to as shot or swiss holes.

(11) *Short.* No elasticity to the plug and when rubbed between the thumb and fingers, it tends toward mealiness.

(12) *Mealy.* Short body, does not mold well and looks and feels like corn meal when rubbed between the thumb and fingers.

(13) *Weak.* Requires little pressure to crush, is soft but is not necessarily sticky like a pasty cheese.

(14) *Pasty.* Usually weak body and when the cheese is rubbed between the thumb and fingers it becomes sticky and smeary.

(15) *Crumbly.* Tends to fall apart when rubbed between the thumb and fingers.

(16) *Gassy.* Gas holes of various sizes and may be scattered.

(17) *Slitty.* Narrow elongated slits generally associated with a cheese that is gassy or yeasty. Sometimes referred to as "Fish-eyes."

(18) *Corky.* Hard, tough, over-firm cheese which does not readily break down when rubbed between the thumb and fingers.

(19) *Pinny.* Numerous very small gas holes.

Subpart I—U.S. Standards for Grades of Monterey (Monterey Jack) Cheese

SOURCE: 37 FR 25969, Dec. 7, 1972, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981.

DEFINITIONS

§ 58.2465 Monterey (Monterey Jack) cheese.

"Monterey cheese" is cheese made by the Monterey process or by any other procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced by the Monterey process. The physical attributes of Monterey cheese are as follows: White to light cream in color; mild to mellow flavor; a semisoft body which contains more moisture and is softer than Colby; texture is similar to Colby and the mechanical holes are evenly dispersed. The cheese is made from cow's milk. It contains added common salt, contains not more than 44 percent of moisture, and in the water-free substance, contains not less than 50 percent of milk fat and conforms to the provisions of § 19.560,[1] "Definitions and Standards of Identity of Cheese and Cheese products," Food and Drug Administration (21 CFR Part 19).[1]

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[1] See footnote at § 58.405.

§ 58.2466 Types of surface protection.

The following are the types of surface protection for Monterey cheese:

(a) *Bandaged and paraffin-dipped.* The cheese is bandaged and dipped in a refined paraffin, amorphous wax, microcrystalline wax, or any combination of such or any other suitable substance. Such coating is a continuous, unbroken and uniform film adhering tightly to the entire surface of the cheese.

(b) *Paraffin-dipped.* The cheese is dipped in a refined paraffin, amorphous wax, microcrystalline wax, or any combination of such or any other film adhering tightly to the entire surface of the cheese.

(c) *Rindless.* The cheese is properly wrapped in a wrapper or covering, or by any other protective covering which will not impart any color or objectionable odor or flavor to the cheese. The wrapper or covering is sealed with a sufficient overlap or satisfactory closure to prevent air leakage. The wrapper or covering is of sufficiently low permeability to water vapor and air so as to prevent the formation of rind and prevent the entrance of air during the curing and holding periods.

U.S. GRADES

§ 58.2467 Nomenclature of U.S. grades.

The nomenclature of U.S. grades is as follows: (a) U.S. grade AA; (b) U.S. grade A; (c) U.S. grade B.

§ 58.2468 Basis for determination of U.S. grades.

The determination of U.S. grades of Monterey cheese shall be on the basis of rating the following quality factors: (a) Flavor, (b) body and texture, (c) color, (d) finish and appearance. The rating of each quality factor shall be established on the basis of characteristics present in any vat of cheese. The cheese shall be graded no sooner than 5 days of age. The cheese shall be held at no lower than 35° F during this period. The final U.S. grade shall be established on the basis of the lowest rating of any one of the quality factors.

§ 58.2469 Specifications for U.S. grades of Monterey (Monterey Jack) cheese.

The general requirements for the U.S. grades of Monterey cheese are as follows:

(a) *U.S. grade AA.* U.S. grade AA Monterey cheese shall conform to the following requirements:

(1) *Flavor.* Is fine and highly pleasing, free from undesirable flavors and odors. May possess a characteristic Monterey cheese flavor or may be lacking in flavor development. May possess a very slight acid or feed flavor, but shall be free from any undesirable flavors and odors. See Table I.

(2) *Body and texture.* A plug drawn from the cheese shall be reasonably firm. It shall have numerous small mechanical openings evenly distributed throughout the plug. It shall not possess sweet holes, yeast holes, or other gas holes. The texture may be definitely curdy or may be partially broken down if more than 3 weeks old. See Table II.

(3) *Color.* Shall have a natural, uniform, bright attractive appearance. See Table III.

(4) *Finish and appearance*—(i) *Bandaged and paraffin-dipped.* The rind shall be sound, firm, and smooth providing a good protection to the cheese. The bandage shall be evenly placed on the end and over the entire surface of the cheese and free from unnecessary overlapping and wrinkles, and not burst or torn. The cheese surface shall be smooth, bright, and have a good coating of paraffin or wax that adheres firmly to the entire surface of the cheese. The cheese shall be free from mold under the bandage and paraffin. The cheese shall be free from high edges, huffing, and lopsidedness, but may possess soiled surface to a very slight degree. See Table IV.

(ii) *Paraffin-dipped.* The rind shall be sound, firm, and smooth providing a good protection to the cheese. The cheese surface shall be smooth, bright, and have a good coating of paraffin or wax that adheres firmly to the entire surface of the cheese. The cheese shall be free from mold under the paraffin. The cheese shall be free from high edges, huffing, rough surfaces and lopsidedness, but may possess soiled surface to a very slight degree. See Table IV.

(iii) *Rindless.* The wrapper or covering shall be practically smooth, properly sealed with adequate overlapping at the seams or sealed by any other satisfactory type of closure. The wrapper or covering shall be neat and adequately and securely envelop the cheese but may be slightly wrinkled. Allowances should be made for wrinkles caused by crimping or sealing when vacuum packaging is used. The cheese shall be free from mold under the wrapper or covering and shall not be huffed or lopsided. See Table IV.

(b) *U.S. grade A.* U.S. grade A Monterey cheese shall conform to the following requirements.

(1) *Flavor.* Is pleasing characteristic flavor free from undesirable flavors and odors. May possess a slightly characteristic Monterey cheese flavor or may be lacking in flavor development. May possess very slight bitter and slight acid and feed but shall not possess undesirable flavors and odors. See Table I.

(2) *Body and texture.* A plug drawn from the cheese shall be reasonably firm. It shall have numerous mechanical openings but the openings shall not be large and connecting. It shall not possess more than two sweet holes per plug, and the plug shall be free from other gas holes. The body may be definitely curdy or partially broken down if more than 3 weeks old. See Table II.

(3) *Color.* Shall have a natural, fairly uniform, bright, attractive appearance. May possess the following characteristic to a very slight degree, wavy. See Table III.

(4) *Finish and appearance*—(i) *Bandaged and paraffin-dipped.* The rind shall be sound, firm, and smooth, providing good protection to the cheese. The bandage may be slightly uneven, overlapped, or wrinkled but not burst or torn. The surface shall be practically smooth, bright, and have a good coating of paraffin or wax that adheres firmly to all surfaces of the cheese. The cheese shall be free from mold under the bandage. May possess the following characteristics to a very slight degree: Soiled surface and surface mold; and to a slight degree: Rough surface, irregular bandaging, lopsided and high edges. See Table IV.

(ii) *Paraffin-dipped.* The rind shall be sound, firm, and smooth providing a good protection to the cheese. The cheese surface shall be practically smooth, bright, and have a good coating of paraffin or wax that adheres firmly to all surfaces of the cheese. The cheese shall be free from mold under the paraffin. Shall be free from huffing, but may possess soiled surface and surface mold to a very slight degree; and rough surface, high edges, and lopsidedness to a slight degree. See Table IV.

(iii) *Rindless.* The wrapper or covering shall be properly sealed with adequate overlapping at the seams or sealed by any other satisfactory type of closure. The wrapper or covering shall be neat and adequately and securely envelop the cheese, but may be slightly wrinkled. Allowances should be made for wrinkles caused by crimping or sealing when vacuum packaging is used. The cheese shall be free from mold under the wrapper or covering and shall not be huffed but may be slightly lopsided. See Table IV.

(c) *U.S. grade B.* U.S. grade B Monterey cheese shall conform to the following requirements.

(1) *Flavor.* Should possess a fairly pleasing characteristic Monterey cheese flavor, or may be lacking in flavor development. May possess very slight onion and sour, and the following flavors to a slight degree: Flat, bitter, fruity, utensil, whey-taint, yeasty, malty, old milk, weedy, barny, and lipase; and the following to a definite degree; acid and feed flavor. See Table I.

(2) *Body and texture.* A plug drawn from the cheese may be open and may have numerous sweet holes, scattered yeast holes, and other scattered gas holes; and may possess various other body defects. Pinny gas holes are not permitted. A plug drawn from the cheese may have numerous mechanical openings varying in size and dispersement and may possess the following characteristics to a slight degree: Coarse, short, mealy, weak, pasty, crumbly, gassy, slitty, and corky; the

following to a definite degree: Curdy and sweet holes. See Table II.

(3) *Color.* Natural but may possess the following characteristics to a slight degree: Wavy, acid-cut, unnatural, mottled, salt spots, dull, or faded. In addition, rindless Monterey cheese may have a bleached surface to a slight degree. See Table III.

(4) *Finish and appearance*—(i) *Bandaged and paraffin-dipped.* The rind shall be reasonably sound, may be slightly weak, but free from soft spots, rind rot, cracks, and openings of any kind. The bandage may be uneven and wrinkled but not burst or torn. The surface may be rough and unattractive but shall possess a fairly good coating of paraffin or wax. The paraffin may be scaly or blistered, with very slight mold under the bandage or paraffin but there shall be no indication that mold has entered the cheese. May possess the following characteristics to a slight degree; soiled surface, surface mold, defective coating, checked rind, weak rind, and sour rind; and to a definite degree; rough surface, irregular bandaging, lopsided and high edges. See Table IV.

(ii) *Paraffin-dipped.* The rind shall be sound, firm, and smooth providing a good protection to the cheese. The cheese surface may be rough and unattractive but shall possess a fairly good coating of paraffin or wax. The paraffin may be scaly or blistered, with very slight mold under the paraffin, but there shall be no indication that mold has entered the cheese. May possess the following characteristics to a slight degree: Soiled surface, surface mold, defective coating, checked rind, weak rind, and sour rind; and to a definite degree: Rough surface, lopsided and high edges. See Table IV.

(iii) *Rindless.* The wrapper or covering shall be fairly smooth and properly sealed with adequate overlapping at the seams or sealed by other satisfactory type of closure. The wrapper or covering shall be fairly neat and adequately and securely envelop the cheese. Allowances should be made for wrinkles caused by crimping or sealing when vacuum packaging is used. The following characteristics may be present to a very slight degree: Mold under the wrapper but not entering the cheese; to a slight degree: Soiled surface, surface mold, lopsided, and the following to a definite degree: Rough surface and wrinkled wrapper or cover. See Table IV.

TABLE I—CLASSIFICATION OF FLAVOR

Identification of flavor characteristics	AA	A	B
Feed	VS	S	D
Acid	VS	S	D
Flat			S
Bitter		VS	S
Fruity			S
Utensil			S
Sour			VS
Whey-Taint			S
Yeasty			S
Malty			S
Old Milk			S
Weedy			S
Onion			VS
Barny			S
Lipase			S

VS—Very Slight. S—Slight. D—Definite. P—Pronounced.

TABLE II—CLASSIFICATION OF BODY AND TEXTURE

Identification of body and texture characteristics	AA	A	B
Curdy	D	D	D
Coarse			S
Sweet holes		S	D
Short			S
Mealy			S
Weak			S
Pasty			S
Crumbly			S
Gassy			S
Silty			S
Corky			S

S—Slight. D—Definite.

TABLE III—CLASSIFICATION OF COLOR

Identification of color characteristics	AA	A	B
Wavy		VS	S
Acid-cut			S
Unnatural			S
Mottled			S
Salt spots			S
Dull or faded			S
Bleached surface (rindless)			S

VS—Very Slight. S—Slight. D—Definite. P—Pronounced.

TABLE IV—CLASSIFICATION OF FINISH AND APPEARANCE

Identification of finish and appearance characteristics	AA	A	B
Soiled surface	VS	VS	S
Surface mold		VS	S
Mold under bandage and paraffin			VS
Mold under wrapper or covering (rindless)			VS
Rough surface		S	
Irregular bandaging (uneven, wrinkled and overlapping)		S	D
Lopsided		S	D
Lopsided (rindless)		S	S
High edges		S	D
Defective coating (scaly, blistered and checked)			S
Checked rind			S
Weak rind			S
Sour rind			S
Wrinkled wrapper or covering (rindless)	S	S	D

VS—Very Slight. S—Slight. D—Definite. P—Pronounced.

§ 58.2470 U.S. grade not assignable.

(a) Monterey (Monterey Jack) cheese which fails to meet the requirements for U.S. grade B or higher shall not be given a U.S. grade.

(b) Monterey (Monterey Jack) cheese which does not comply with the provisions of the Federal Food, Drug, and Cosmetic Act shall not be assigned a U.S. grade.

(c) Monterey (Monterey Jack) produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment or facilities, or to be operating under unsanitary plant conditions shall not be assigned a U.S. grade.

EXPLANATION OF TERMS

§ 58.2471 Explanation of terms.

(a) *With respect to types of surface protection*—(1) *Paraffin.* Refined paraffin, amorphous wax, microcrystalline wax, or any combination of such or any other suitable substance.

(2) *Rindless.* Cheese which has not formed a rind due to the impervious type of wrapper, covering, or container, enclosing the cheese, or by any other means of handling.

(b) *With respect to flavor*—(1) *Very slight.* Detected only upon very critical examination.

(2) *Slight.* Detected only upon critical examination.

(3) *Definite.* Not intense but detectable.

(4) *Pronounced.* So intense as to be easily identified.

(5) *Lacking in flavor development.* No undesirable and very little, if any, Monterey cheese flavor development.

(6) *Undesirable.* Those listed in excess of the intensity permitted or those not otherwise listed.

(7) *Feed.* Feed flavors (such as alfalfa, sweetclover, silage, or similar feed) in milk carried through into the cheese.

(8) *Acid.* Sharp and puckery to the taste, characteristic of lactic acid.

(9) *Flat.* Insipid, practically devoid of any characteristic Monterey cheese flavor.

(10) *Bitter.* Distasteful, resembling taste of quinine.

(11) *Fruity.* A sweet fruit-like flavor resembling mature apples.

(12) *Utensil.* A flavor that is suggestive of improper or inadequate washing and sterilization of milking machines, utensils, or factory equipment.

(13) *Sour.* An acidly pungent flavor resembling vinegar.

(14) *Whey-taint.* A slightly acid flavor and odor characteristic of fermented whey caused by too slow or incomplete expulsion of whey from the curd.

(15) *Yeasty.* A flavor indicating yeasty fermentation.

(16) *Malty.* A distinctive, harsh flavor suggestive of malt.

(17) *Old milk.* Lacks freshness.

(18) *Weedy.* A flavor due to the use of milk which possesses a common weedy flavor.

(19) *Onion.* This flavor is recognized by the peculiar taste and aroma suggestive of its name. Present in milk or cheese when the cows have eaten onions, garlic, or leeks.

(20) *Barny.* A flavor characteristic of the odor of a poorly ventilated cow barn.

(21) *Lipase.* A flavor suggestive of rancidity or odor of butyric acid, sometimes associated with a bitterness.

(c) *With respect to body and texture*—(1) *Very slight.* Detected only upon very critical examination and present only to a minute degree.

(2) *Slight.* Barely identifiable and present only to a small degree.

(3) *Definite.* Readily identifiable and present to a substantial degree.

(4) *Pronounced.* Markedly identifiable and present to a large degree.

(5) *Broken down.* Changed from a curdy or rubbery condition to a waxy condition or further to a mealy or pasty condition.

(6) *Firm.* Feels solid, not soft or weak.

(7) *Reasonably firm.* Somewhat less firm but not the extent of materially injuring the keeping quality of the cheese.

(8) *Curdy.* Smooth but firm; when worked between the fingers is rubbery and not waxy.

(9) *Coarse.* Feels rough, dry, and sandy.

(10) *Mechanical opening.* Mechanical openings that are irregular in shape and are caused by variations in make procedure and not gas fermentation.

(11) *Sweet holes.* Spherical gas holes, glossy in appearance; usually about the size of BB shots.

(12) *Short.* No elasticity to the plug and when rubbed between the thumb and fingers it tends toward mealiness.

(13) *Mealy.* Short body, does not mold well and looks and feels like corn meal when rubbed between the thumb and fingers.

(14) *Weak.* Requires little pressure to crush, is soft but is not necessarily sticky like a pasty cheese.

(15) *Pasty.* Weak body and when the cheese is rubbed between the thumb and fingers it becomes sticky and smeary.

(16) *Crumbly.* Loosely knit and tends to fall apart when rubbed between the thumb and fingers.

(17) *Gassy.* Gas holes of various sizes and may be scattered.

(18) *Slitty.* Narrow elongated slits generally associated with a cheese that is gassy or yeasty. Sometimes referred to as "fish-eyes."

(19) *Corky.* Hard, tough, over-firm cheese which does not readily break down when rubbed between the thumb and fingers.

(20) *Pinny.* Numerous very small gas holes.

(d) *With respect to color*—(1) *Very slight.* Detected only upon very critical examination and present only to a minute degree.

(2) *Slight.* Barely identifiable and present only to a small degree.

(3) *Definite.* Readily identifiable and present to a substantial degree.

(4) *Pronounced.* Markedly identifiable and present to a large degree.

(5) *Uncolored.* Absence of added coloring.

(6) *Wavy.* Unevenness of color which appears as layers or waves.

(7) *Acid-cut.* Bleached or faded appearance which sometimes varies throughout the cheese, appearing most often around mechanical openings.

(8) *Unnatural.* Deep orange or reddish color.

(9) *Mottled.* Irregular shaped spots or blotches in which portions are light colored and others are of high color. Also an unevenness of color due to combining the curd from two different vats, sometimes referred to as "mixed curd."

(10) *Salt spots.* Large light colored spots or areas.

(11) *Dull or faded.* A color condition lacking in luster or translucency.

(12) *Bleached surface.* A faded color beginning at the surface and progressing inward.

(e) *With respect to finish and appearance*—(1) *Very slight.* Detected only upon very critical examination and present only to a minute degree.

(2) *Slight.* Barely identifiable and present only to a small degree.

(3) *Definite.* Readily identifiable and present to a substantial degree.

(4) *Pronounced.* Markedly identifiable and present to a large degree.

(5) *Wax or paraffin that adheres firmly to the surface of the cheese.* Thin or thick coating with no indication of cracking, breaking, or loosening.

(6) *Rind.* Hard coating caused by the desiccation of the surface of the cheese.

(7) *Firm sound rind.* Possessing a firmness and thickness (not easily

dented or damaged) consistent with the size of the cheese and which is dry, smooth, and closely knit, sufficient to protect the interior quality from external defects; free from checks, cracks, breaks, or soft spots.

(8) *Burst or torn bandage.* A severance of the bandage usually occurring at the side seam, or the bandage is otherwise snagged or broken.

(9) *Wrapper or covering.* Transparent or opaque material (plastic film type or foil) next to the surface of the cheese, used as an enclosure or covering of the cheese.

(10) *Adequately and securely envelop.* Wrapper or covering properly sealed, and entirely enclosing the cheese, with sufficient adherence to the surface to protect it from contamination and dehydration.

(11) *Smooth bright surface.* Clean glossy surface.

(12) *Smooth surface.* Not rough or uneven.

(13) *Soiled surface.* Milkstone, rust spots, or other discoloration on the surface of the cheese.

(14) *Surface mold.* Mold on the paraffin or the exterior of the cheese.

(15) *Mold under bandage and paraffin.* Mold spots or areas that have formed under the paraffin or mold that has penetrated from the surface and continued to develop.

(16) *Mold under wrapper or covering.* Mold spots or areas that have formed under the wrapper or on the cheese.

(17) *Rough surface.* Lacks smoothness.

(18) *Bandage evenly placed.* Overlapping the edges evenly about 1 inch.

(19) *Irregular bandaging.* Bandage improperly placed in the hoop resulting in too much bandage on one end and insufficient on the other causing overlapping; wrinkled and loose fitting.

(20) *Lopsided.* One side of the cheese is higher than the other side.

(21) *High edge.* A rim or ridge on the follower side of the cheese, which is raised in varying degrees. In extreme cases it may bend over.

(22) *Defective coating.* Brittle coating of paraffin that breaks and peels off in the form of scales or flakes; flat or raised blisters or bubbles under the surface of the paraffin; checked paraffin, including cracks, breaks, or hairline checks in the paraffin or coating of the cheese.

(23) *Checked rind.* Numerous small cracks or breaks in the rind, sometimes following the outline of curd particles, sometimes referred to as "curd openings."

(24) *Huffed.* Swollen because of gas fermentation. The cheese becomes rounded or oval in shape instead of being flat.

(25) *Weak rind.* Thin and possessing little or no resistance to pressure.

(26) *Sour rind.* A fermented rind condition, usually confined to the faces of the cheese.

Subpart J—U.S. Standards for Grades of Colby Cheese

SOURCE: 37 FR 25992, Dec. 7, 1972, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981.

DEFINITIONS

§ 58.2475 Colby cheese.

"Colby cheese" is cheese made by the Colby process or by any other procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced by the Colby process. The physical attributes of Colby cheese are as follows: Uncolored to orange in color; a mild to mellow flavor similar to mild Cheddar cheese; softer bodied and more open textured than Cheddar. The cheese is made from cow's milk with or without the addition of coloring matter. It contains added common salt, contains not more than 40 percent of moisture, and in the water-free substance contains not less than 50 percent of milk fat, and conforms to the provisions of § 19.510 or § 19.512[1] as applicable, "Definitions and Standards of Identity for Cheese and Cheese products." Food and Drug Administration (21 CFR Part 19).[1]

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[1] See footnote at § 58.405.

§ 58.2476 Types of surface protection.

The following are the types of surface protection for Colby cheese:

(a) *Bandaged and paraffin-dipped.* The cheese is bandaged and dipped in a refined paraffin, amorphous wax, microcrystalline wax, or any combination of such, or any other suitable substance. Such coating is a continuous, unbroken, and uniform film adhering tightly to the entire surface of the cheese.

(b) *Rindless.* The cheese is properly wrapped in a wrapper or covering, or by any other protective covering, which will not impart any color or objectionable odor or flavor to the cheese. The wrapper or covering is sealed with a sufficient overlap or satisfactory closure to prevent air leakage. The wrapper or covering is of sufficiently low permeability to water vapor and air so as to prevent the formation of rind and prevent the entrance of air during the curing and holding periods.

U.S. GRADES

§ 58.2477 Nomenclature of U.S. grades.

The nomenclature of U.S. grades is as follows: (a) U.S. Grade AA; (b) U.S. Grade A; (c) U.S. Grade B.

§ 58.2478 Basis for determination of U.S. grades.

The determination of U.S. grades of Colby cheese shall be on the basis of rating the following quality factors: (a) Flavor, (b) body and texture, (c) color, (d) finish and appearance. The rating of each quality factor shall be established on the basis of characteristics present in any vat of cheese. The cheese shall be graded no sooner than 10 days of age. The cheese shall be held at no lower than 35° F during this period. The final U.S. grade shall be established on the basis of the lowest rating of any one of the quality factors.

§ 58.2479 Specifications for U.S. grades of Colby cheese.

The general requirements for the U.S. grades of Colby cheese are as follows:

(a) *U.S. Grade AA.* U.S. Grade AA Colby cheese shall conform to the following requirements.

(1) *Flavor.* Is fine and highly pleasing, free from undesirable flavors and odors. May be lacking in flavor development or may possess a characteristic Colby cheese flavor. May possess a very slight acid or feed flavor, but shall be free from any undesirable flavors and odors. See Table I.

(2) *Body and texture.* A plug drawn from the cheese shall be firm. It shall have numerous small mechanical openings evenly distributed throughout the plug. It shall be relatively free from blind areas. It shall not possess sweet holes, yeast holes, or other gas holes. The texture may be definitely curdy or may be partially broken down if more than 3 weeks old. See Table II.

(3) *Color.* Shall have a uniform, bright attractive appearance. May be colored or uncolored but the color shall be uniform. See Table III.

(4) *Finish and appearance*—(i) *Bandaged and paraffin-dipped.* The rind shall be sound, firm and smooth providing a good protection to the cheese. The bandage shall be evenly placed on the end and over the entire surface of the cheese, free from unnecessary overlapping and wrinkles, and not burst or torn. The cheese surface shall be smooth, bright, and have a good coating of paraffin or wax that adheres firmly to the entire surface of the cheese. The cheese shall be free from mold under the bandage and paraffin. The cheese shall be free from high edges, huffing, and lopsidedness, but may possess soiled surface to a very slight degree. See Table IV.

(ii) *Rindless.* The wrapper or covering shall be practically smooth and properly sealed with adequate overlapping at the seams or sealed by any other satisfactory type of closure. The wrapper or covering shall be neat, and adequately and securely envelop the cheese but may be slightly wrinkled. Allowance should be made for wrinkles caused by crimping or sealing when vacuum packaging is used. The cheese shall be free from mold under the wrapper or covering and shall not be huffed or lopsided. See Table IV.

(b) *U.S. Grade A.* U.S. Grade A Colby cheese shall conform to the following requirements.

(1) *Flavor.* Is pleasing and free from undesirable flavors and odors. May be lacking in flavor development or may possess slight characteristic Colby cheese flavor. May possess a very slight bitter flavor, slight acid, or feed flavors but shall not possess undesirable flavors and odors. See Table I.

(2) *Body and texture.* A plug drawn from the cheese shall be reasonably firm. It shall have numerous mechanical openings but the openings shall not be large and connecting. It shall not possess more than two sweet holes per plug, and the plug shall be free from other gas holes. The body may be very slightly loosely knit and definitely curdy or partially broken down if more than 3 weeks old. See Table II.

(3) *Color.* Shall have a fairly uniform, bright attractive appearance. May be colored or uncolored but the color shall be uniform. Very slight waviness is permitted. See Table III.

(4) *Finish and appearance*—(i) *Bandaged and paraffin-dipped.* The rind shall be sound, firm, and smooth, providing a good protection to the cheese. The bandage may be slightly uneven, overlapped or wrinkled but not burst or torn. The surface shall be practically smooth, bright and have a good coating of paraffin or wax that adheres firmly to all surfaces of the cheese. The cheese shall be free from mold under the bandage. May possess the following characteristics to a very slight degree: Soiled surface and surface mold; and to a slight degree. Rough surface, irregular bandaging, lopsided and high edges. See Table IV.

(ii) *Rindless.* The wrapper or covering shall be practically smooth, properly sealed with adequate overlapping at the seams or sealed by any other satisfactory type of closure. The wrapper or covering shall be neat and shall adequately and securely envelop the cheese. It may be slightly wrinkled but shall be of such character as to fully protect the surface of the cheese and not detract from its initial quality. The cheese shall be free from mold under the wrapper or covering and shall not be huffed but may be slightly lopsided. See Table IV.

(c) *U.S. Grade B.* U.S. Grade B Colby cheese shall conform to the following requirements.

(1) *Flavor.* Should possess a fairly pleasing characteristic Colby cheese flavor, but may possess very slight onion and the following flavors to a slight degree: Flat, bitter, fruity, utensil, whey-taint, yeasty, malty, old milk, weedy, barny and lipase; and the following to a definite degree: Acid and feed flavor. See Table I.

(2) *Body and texture.* A plug drawn from the cheese may be loosely knit and open and may have numerous sweet holes, scattered yeast holes and other scattered gas holes; and may possess various other body defects. Pinny gas holes, scattered yeast holes and other from the cheese may possess the following characteristics to a slight degree: Coarse, short, mealy, weak, pasty, crumbly, gassy, slitty, corky and loosely knit; the following to a definite degree: Curdy, and sweet holes. See Table II.

(3) *Color.* May possess the following characteristics to a slight degree: Wavy, mottled, salt spots, dull or faded. May be colored or uncolored, and color may be slightly unnatural. In addition, rindless Colby cheese may have a bleached surface to a slight degree. See Table III.

(4) *Finish and appearance*—(i) *Bandaged and paraffin-dipped.* The rind shall be reasonably sound, may be slightly weak, but free from soft spots, rind rot, cracks and openings of any kind. The bandage may be uneven and wrinkled but not burst or torn. The surface may be rough and unattractive but shall possess a fairly good coating of paraffin or wax. The paraffin may be scaly or blistered, with very slight mold under the bandage or paraffin but there shall be no indication that mold has entered the cheese. May possess the following characteristics to a slight degree: Soiled surface, surface mold, defective coating, checked rind, weak rind, and sour rind; and the following to a definite degree: Rough surface, irregular bandaging, lopsided and high edges. See Table IV.

(ii) *Rindless.* The wrapper or covering shall be unbroken but may be definitely wrinkled. The wrapper or covering shall adequately and securely envelop the cheese. The following characteristics may be present to a very slight degree: Mold under the wrapper but not entering the cheese; to a slight degree: Soiled surface, surface mold, lopsided; and the following to a definite degree: Rough surface and wrinkled wrapper or cover. See Table IV.

TABLE I—CLASSIFICATION OF FLAVOR

Identification of flavor characteristics	AA	A	B
Feed	VS	S	D
Acid	VS	S	D
Flat			S
Bitter		VS	S
Fruity			S
Utensil			S
Whey-Taint			S
Yeasty			S
Malty			S
Old Milk			S
Weedy			S
Onion			VS
Barny			S
Lipase			S

VS—Very Slight. S—Slight. D—Definite. P—Pronounced.

TABLE II—CLASSIFICATION OF BODY AND TEXTURE

Identification of body and texture characteristics	AA	A	B
Curdy	D	D	D
Coarse			S
Sweet holes		S	D
Short			S
Mealy			S
Weak			S
Pasty			S
Crumbly			S
Gassy			S
Slitty			S
Corky			S
Loosely knit		VS	S

VS—Very Slight. S—Slight. D—Definite. P—Pronounced.

TABLE III—CLASSIFICATION OF COLOR

Identification of color characteristics	AA	A	B
Wavy		VS	S
Unnatural			S
Mottled			S
Salt spots			S
Dull or faded			S
Bleached surface (rindless)			S

VS—Very Slight. S—Slight. D—Definite. P—Pronounced.

TABLE IV—CLASSIFICATION OF FINISH AND APPEARANCE

Identification of finish and appearance characteristics	AA	A	B
Soiled surface	VS	VS	S
Surface mold		VS	S
Mold under bandage and paraffin			VS
Mold under wrapper or covering (rindless)			VS
Rough surface		S	D
Irregular bandaging (uneven, wrinkled and overlapping)		S	D
Lopsided		S	D
Lopsided (rindless)		S	S
High edges		S	D
Defective coating (scaly, blistered, and checked)			S
Checked rind			S
Weak rind			S
Sour rind			S
Wrinkled wrapper or cover (rindless)	S	S	D

VS—Very Slight. S—Slight. D—Definite. P—Pronounced.

§ 58.2480 U.S. grade not assignable.

(a) Colby cheese which fails to meet the requirements for U.S. Grade B or higher shall not be given a U.S. grade.

(b) Colby cheese which does not comply with the provisions of the Federal Food, Drug, and Cosmetic Act shall not be assigned a U.S. grade.

(c) Colby cheese produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment or facilities, or to be operating under unsanitary plant conditions shall not be assigned a U.S. grade.

EXPLANATION OF TERMS

§ 58.2481 Explanation of terms.

(a) *With respect to types of surface protection*—(1) *Paraffin.* Refined paraffin, amorphous wax, microcrystalline wax, or any combination of such or any other suitable substance.

(2) *Rindless.* Cheese which has not formed a rind due to the impervious type of wrapper, covering, or container, enclosing the cheese, or by any other means of handling.

(b) *With respect to flavor*—(1) *Very slight.* Detected only upon very critical examination.

(2) *Slight.* Detected only upon critical examination.

(3) *Definite.* Not intense but detectable.

(4) *Pronounced.* So intense as to be easily identified.

(5) *Lacking in flavor development.* No undesirable and very little, if any, Colby cheese flavor development.

(6) *Undesirable.* Those listed in excess of the intensity permitted or those not otherwise listed.

(7) *Feed.* Feed flavors (such as alfalfa, sweetclover, silage, or similar feed) in milk carried through into the cheese.

(8) *Acid.* Sharp and puckery to the taste, characteristic of lactic acid.

(9) *Flat.* Insipid, practically devoid of any characteristic Colby cheese flavor.

(10) *Bitter.* Distasteful, resembling taste of quinine.

(11) *Fruity.* A sweet fruitlike flavor resembling mature apples.

(12) *Utensil.* A flavor that is suggestive of improper or inadequate washing and sterilization of milking machines, utensils, or factory equipment.

(13) *Whey-taint.* A slightly acid flavor and odor characteristic of fermented whey caused by too slow or incomplete expulsion of whey from the curd.

(14) *Yeasty.* A flavor indicating yeasty fermentation.

(15) *Malty.* A distinctive, harsh flavor suggestive of malt.

(16) *Old milk.* Lacks freshness.

(17) *Weedy.* A flavor due to the use of milk which possesses a common weedy flavor.

(18) *Onion.* A flavor recognized by the peculiar taste and aroma suggestive of its name. Present in milk or cheese when the cows have eaten onions, garlic or leeks.

(19) *Barny.* A flavor characteristic of the odor of a poorly ventilated cow barn.

(20) *Lipase.* A flavor suggestive of rancidity or the odor of butyric acid, sometimes associated with a bitterness.

(c) *With respect to body and texture*—(1) *Very slight.* Detected only upon very critical examination and present only to a minute degree.

(2) *Slight.* Barely identifiable and present only to a small degree.

(3) *Definite.* Readily identifiable and present to a substantial degree.

(4) *Pronounced.* Markedly identifiable and present to a large degree.

(5) *Blind.* Lacking small mechanical openings characteristic of Colby cheese.

(6) *Firm.* Feels solid, not soft or weak.

(7) *Reasonably firm.* Somewhat less firm but not to the extent of being weak.

(8) *Curdy.* Firm when worked between the fingers, rubbery and not waxy.

(9) *Coarse.* Feels rough, dry, and sandy.

(10) *Mechanical openings.* Mechanical openings that are irregular in shape and are caused by variations in make procedure and not gas fermentation.

(11) *Sweet holes.* Spherical gas holes, glossy in appearance; usually about the size of BB shots.

(12) *Short.* No elasticity to the plug and when rubbed between the thumb and fingers it tends toward mealiness.

(13) *Mealy.* Short body, does not mold well and looks and feels like corn meal when rubbed between the thumb and fingers.

(14) *Weak.* Requires little pressure to crush, is soft but is not necessarily sticky like a pasty cheese.

(15) *Pasty.* Weak body and when the cheese is rubbed between the thumb and fingers it becomes sticky and smeary.

(16) *Crumbly.* Loosely knit and tends to fall apart when rubbed between the thumb and fingers.

(17) *Gassy.* Gas holes of various sizes and may be scattered.

(18) *Slitty.* Narrow elongated slits generally associated with a cheese that is gassy or yeasty. Sometimes referred to as "fish-eyes."

(19) *Corky.* Hard, tough, overfirm cheese which does not readily break down when rubbed between the thumb and fingers.

(20) *Pinny.* Numerous very small gas holes.

(21) *Broken down.* Changed from a curdy or rubbery condition to a waxy condition or further to a mealy or pasty condition.

(d) *With respect to color*—(1) *Very slight.* Detected only upon very critical examination and present only to a minute degree.

(2) *Slight.* Barely identifiable and present only to a small degree.

(3) *Definite.* Readily identifiable and present to a substantial degree.

(4) *Pronounced.* Markedly identifiable and present to a large degree.

(5) *Uncolored.* Absence of added coloring.

(6) *Wavy.* Unevenness of color which appears as layers or waves.

(7) *Unnatural.* Deep orange or reddish color.

(8) *Mottled.* Irregular shaped spots or blotches in which portions are light colored and others are of higher color. Also an unevenness of color due to combining the curd from two different vats, sometimes referred to as "mixed curd."

(9) *Salt spots.* Large light colored spots or areas.

(10) *Dull or faded.* A color condition lacking in lustre or translucency.

(11) *Bleached surface.* A faded color beginning at the surface and progressing inward.

(e) *With respect to finish and appearance*—(1) *Very slight.* Detected only upon very critical examination and present only to a minute degree.

(2) *Slight.* Barely identifiable and present to a small degree.

(3) *Definite.* Readily identifiable and present to a substantial degree.

(4) *Pronounced.* Marked identifiable and present to a large degree.

(5) *Wax or paraffin that adheres firmly to the surface of the cheese.* Thin or thick coating with no indication of cracking, breaking, or loosening.

(6) *Rind.* Hard coating caused by the dehydration of the surface of the cheese.

(7) *Firm sound rind.* Possessing a firmness and thickness (not easily dented or damaged) consistent with the size of the cheese and which is dry, smooth, and closely knit, sufficient to protect the interior quality from external defects; free from checks, cracks, breaks, or soft spots.

(8) *Burst or torn bandage.* A severance of the bandage usually occurring at the side seam, or the bandage is otherwise snagged or broken.

(9) *Wrapper or covering.* Transparent or opaque material (plastic film type or foil) next to the surface of the cheese, used as an enclosure or covering of the cheese.

(10) *Adequately and securely enveloped.* Wrapper or covering properly sealed, and entirely enclosing the cheese, with sufficient adherence to the surface to protect it from contamination and dehydration.

(11) *Smooth bright surface.* Clean, glossy surface.

(12) *Smooth surface.* Not rough or uneven.

(13) *Soiled surface.* Milkstone, rust spots, or other discoloration on the surface of the cheese.

(14) *Surface mold.* Mold on the paraffin or the exterior of the cheese.

(15) *Mold under bandage and paraffin.* Mold spots on areas that have formed under the paraffin or mold that has penetrated from the surface and continued to develop.

(16) *Mold under wrapper or covering.* Mold spots or areas that have formed under the wrapper or on the cheese.

(17) *Rough surface.* Lacks smoothness.

(18) *Bandage evenly placed.* Overlapping the edges evenly about one inch.

(19) *Irregular bandaging.* Bandage improperly placed in the hoop resulting in too much bandage on one end and insufficient on the other causing overlapping; wrinkled and loose fitting.

(20) *Lopsided.* One side of the cheese is higher than the other side.

(21) *High edge.* A rim or ridge on the follower side of the cheese, which is raised in varying degrees. In extreme cases it may bend over.

(22) *Defective coating.* Brittle coating of paraffin that breaks and peels off in the form of scales or flakes; flat or raised blisters or bubbles under the surface of the paraffin; check paraffin, including cracks, breaks or hairline checks in the paraffin or coating of the cheese.

(23) *Checked rind.* Numerous small cracks or breaks in the rind, sometimes following the outline of curd

particles, sometimes referred to as "curd openings."

(24) *Huffed.* Swollen because of gas fermentation. The cheese becomes rounded or oval in shape instead of being flat.

(25) *Weak rind.* Thin and possessing little or no resistance to pressure.

(26) *Sour rind.* A fermented rind condition, usually confined to the faces of the cheese.

Subpart K—United States Standards for Grades of Cheddar Cheese

§ 58.2501 Cheddar cheese.

"Cheddar cheese" is cheese made by the cheddary process or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced by the cheddar process and is made from cow's milk with or without the addition of coloring matter and with common salt, contains not more than 39 percent of moisture, and in the water-free substance, contains not less than 50 percent of milkfat and conforms to the provisions of § 19.500, "Definitions and Standards of Identity for Cheese and Cheese Products." Food and Drug Administration (21 CFR 19.500).[1]

§ 58.2502 Types of packaging.

The following are the types of packaging for cheddar cheese:

(a) *Bandaged and paraffin-dipped.* The cheese is bandaged and dipped in a refined paraffin, amorphous wax, microcrystalline wax or any combination of such or any other suitable substance. Such coating is a continuous, unbroken and uniform film adhering tightly to the entire surface of the cheese.

(b) *Rindless.* The cheese is properly wrapped in a wrapper or covering, or by any other means of handling, which will not impart any color or objectionable odor or flavor to the cheese. The wrapper or covering is sealed with a sufficient overlap or satisfactory closure to prevent air leakage. The wrapper or covering is of sufficiently low permeability to water vapor and air so as to prevent the formation of rind and prevent the entrance of air during the curing and holding periods.

§ 58.2503 Nomenclature of U.S. Grades.

The nomenclature of U.S. grades is as follows: (a) U.S. Grade AA; (b) U.S. Grade A; (c) U.S. Grade B; and (d) U.S. Grade C.

§ 58.2504 Basis for determination of U.S. Grades.

The determination of U.S. Grades of cheddar cheese, according to the degree of curing, shall be on the basis of rating (a) flavor, (b) body and texture, (c) color, (d) finish and appearance. The rating of each quality factor shall be established on the basis of characteristics present in any vat of cheese. The final U.S. Grade shall be established on the basis of the lowest rating of any one of the quality characteristics.

§ 58.2505 Specifications for U.S. Grades of cheddar cheese.

The general specifications for the U.S. Grades of cheddar cheese, according to the degree of curing, are as follows:

(a) *U.S. Grade AA.* U.S. Grade AA cheddar cheese shall conform to the following requirements and specifications:

(1) *Flavor.* Fine and highly pleasing, free from undesirable flavors and odors. May possess very slight feed flavors. For detailed specifications and classification of flavor characteristics according to the degree of curing see Tables I and V.

(2) *Body and texture.* A plug drawn from the cheese shall be firm and appear solid, smooth, compact, close and should be translucent, although it may have a few small mechanical openings. May possess limited sweet holes in accordance with the degree of curing but free from other gas holes. For detailed specifications and classification of body and texture characteristics according to the degree of curing see Tables I and VI.

(3) *Color.* May be colored or uncolored but if colored, it should be a medium yellow-orange. May possess

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[1] See footnote at § 58.405.

numerous tiny white specks associated with aged cheese. Very slight seaminess is permitted. For detailed specifications and classification of color characteristics according to the degree of curing see Tables I and VII.

(4) *Finish and appearance*—(i) *Bandaged and paraffin-dipped.* The rind shall be sound, firm and smooth providing a good protection to the cheese. The bandage shall be evenly placed on the end of the cheese and free from unnecessary overlapping and wrinkles and not burst or torn. The surface shall be smooth, bright, and have a good coating of paraffin or wax that adheres firmly to all surfaces of the cheese but may have mold under the bandage and paraffin within certain limited tolerances for the degree of curing. There shall be no indication that mold has entered the cheese. Shall be free from high edges, huffing and lopsidedness. For detailed specifications and classifications of finish and appearance characteristics according to the degree of curing see Tables I and VIII.

(ii) *Rindless.* The wrapper or covering shall adequately and securely envelop the cheese, be neat, unbroken and fully protect the surface but may be slightly wrinkled. The cheese shall be free from huffing and lopsidedness and may have very slight mold under the wrapper or covering in medium and cured classifications. There shall be no indication that mold has entered the cheese. For detailed specifications and classifications of finish and appearance characteristics of rindless according to the degree of curing see Tables I and VIII.

(b) *U.S. Grade A.* U.S. Grade A cheddar cheese shall conform to the following requirements and specifications:

(1) *Flavor.* Pleasing and free from undesirable flavors and odors. May possess feed, acid and bitter flavors within limited tolerances as the cheese ages. For detailed specifications and classification of flavor characteristics according to the degree of curing see Tables II and V.

(2) *Body and texture.* A plug drawn from the cheese shall appear reasonably solid, compact, close and should be translucent although it may have a few mechanical openings but may not be large and connecting. May not have more than two sweet holes on a plug but free from other gas holes. For detailed specifications and classification of body and texture characteristics according to the degree of curing see Tables II and VI.

(3) *Color.* May be colored or uncolored but if colored it should be a medium yellow-orange. May possess numerous tiny white specks, associated with aged cheese. May possess seminess and waviness to a limited degree. For detailed specifications and classification of color characteristics according to the degree of curing see Tables II and VII.

(4) *Finish and appearance*—(i) *Bandaged and paraffin-dipped.* The rind shall be sound, firm and smooth, providing a good protection to the cheese. The bandage may be slightly uneven, overlapped or wrinkled, but not burst or torn. The surface shall be practically smooth, bright and have a good coating of paraffin or wax that adheres firmly to all surfaces of the cheese, with certain allowable tolerances for mold and other defects according to the degree of curing. There shall be no indication that mold has entered the cheese. Shall be free from huffing, but may have slightly high edges and be slightly lopsided. For detailed specifications and classification of finish and appearance characteristics according to the degree of curing see Tables II and VIII.

(ii) *Rindless.* The wrapper or covering shall adequately and securely envelop the cheese, be neat, unbroken and fully protect the surface but may be slightly wrinkled. The cheese shall be free from huffing but may be slightly lopsided and may have very slight mold under the wrapper or covering in medium and cured classifications. There shall be no indication that mold has entered the cheese. For detailed specifications and classification of finish and appearance characteristics of rindless according to the degree of curing see Tables II and VIII.

TABLE I—DETAILED SPECIFICATIONS FOR U.S. GRADE AA

Fresh or current	Medium cured	Cured or aged
(a) *Flavor:*		
Fine and highly pleasing. May be lacking in flavor development or may possess slight characteristic cheddar cheese flavor. May possess a very slight feed flavor, but shall be free from any undesirable flavors and odors.	Fine and highly pleasing. Possesses a moderate degree of characteristic cheddar cheese flavor. May possess a very slight feed flavor but shall be free from any undesirable flavors and odors.	Fine and highly pleasing characteristic cheddar cheese flavor showing moderate to well-developed degrees of flavor or sharpness. May possess a very slight feed flavor but shall be free from any undesirable flavors and odors.
(b) *Body and texture:*		
A plug drawn from the cheese shall be firm, appear smooth, compact, close and should be slightly translucent, but may have a few small mechanical openings. The texture may be definitely curdy or may be partially broken down if more than 3 weeks old. Shall be free from sweet holes, yeast holes and gas holes of any kind.	A plug drawn from the cheese shall be firm, appear smooth, waxy, compact, close, flexible and translucent, but may have a few mechanical openings if not large and connecting. May be slightly or not entirely broken down. May possess not more than one sweet hole per plug but shall be free from other gas holes.	A plug drawn from the cheese shall be firm, appear smooth, waxy, compact, close and translucent but may have a few mechanical openings if not large and connecting. Should be free from curdiness and possess a cohesive velvet-like texture. May possess not more than one sweet hole per plug but shall be free from other gas holes.
(c) *Color:*		
Shall have a uniform, bright attractive appearance; practically free from white lines or seams. May be colored or uncolored but if colored it should be a medium yellow-orange.	Shall have a uniform, bright attractive appearance; practically free from white lines or seams. May be colored or uncolored, but if colored it should be a medium yellow-orange.	Shall have a uniform, bright attractive appearance; practically free from white lines or seams. May show numerous tiny white specks. May be colored or uncolored, but if colored it should be a medium yellow-orange.
(d) *Finish and appearance:*		
Bandaged and paraffin-dipped. Shall possess a sound, firm rind with a smooth bandage and paraffin coating adhering tightly but may possess soiled surface to a very slight degree. The cheese shall be even and uniform in shape.	*Bandaged and paraffin dipped.* Shall possess a sound, firm rind with a smooth bandage and paraffin coating adhering tightly but may possess very slight mold under bandage and paraffin, and the following other characteristics to a slight degree; soiled surface and surface mold. The cheese shall be even and uniform in shape.	*Bandaged and paraffin dipped.* Shall possess a sound, firm rind with a smooth bandage and paraffin coating adhering tightly but may possess the following characteristics to a slight degree; soiled surface and mold under bandage and paraffin; and surface mold to a definite degree. The cheese shall be even and uniform in shape.
Rindless. The wrapper or covering shall be practically smooth, properly sealed with adequate overlapping at the seams or by any other satisfactory type of closure. The wrapper or covering shall be neat and adequately and securely envelop the cheese. May be slightly wrinkled but shall be of such character as to fully protect the surface of the cheese and not detract from its initial quality. Shall be free from mold under wrapper or covering and shall not be huffed or lopsided.	*Rindless.* Same as for current, except very slight mold under wrapper or covering permitted.	*Rindless.* Same as for medium.

TABLE II—DETAILED SPECIFICATIONS FOR U.S. GRADE A

Fresh or current	Medium cured	Cured or aged
(a) *Flavor*:		
Shall possess a pleasing flavor. May be lacking in flavor development or may possess slight characteristic cheddar cheese flavor. May possess very slight acid, slight feed but shall not possess any undesirable flavors and odors.	Shall possess a pleasing characteristic cheddar cheese flavor and aroma. May possess a very slight bitter flavor and the following flavors to a slight degree; feed and acid.	Shall possess a pleasing characteristic cheddar cheese flavor and aroma with moderate to well developed degrees of flavor or sharpness. May possess the following flavors to a slight degree; bitter, feed and acid.
(b) *Body and texture*:		
A plug drawn from the cheese shall be firm, appear smooth, compact, close and should be slightly translucent but may have a few mechanical openings if not large and connecting. May possess not more than two sweet holes per plug but shall be free from other gas holes. May be definitely curdy or partially broken down if more than 3 weeks old.	A plug drawn from the cheese shall be reasonably firm, appear reasonably smooth, waxy, fairly close and translucent but may have a few mechanical openings if not large and connecting. May be slightly curdy or not entirely broken down. May possess not more than two sweet holes per plug but shall be free from other gas holes. May possess the following other characteristics to a slight degree; mealy, short and weak.	A plug drawn from the cheese should be fairly firm, appear smooth, waxy, fairly close and translucent but may have a few mechanical openings. Should be free from curdiness. May possess not more than two sweet holes per plug but shall be free from other gas holes. May possess the following other characteristics to a slight degree; crumbly, mealy, short, weak and pasty.
(c) *Color*:		
Shall have a fairly uniform, bright attractive appearance. May have slight white lines or seams or be very slightly wavy. May be colored or uncolored but if colored, it should be a medium yellow-orange.	Shall have a uniform, bright attractive appearance. May have slight white lines or seams. May be colored or uncolored but if colored, it should be a medium yellow-orange.	Shall have a uniform, bright attractive appearance. May have slight white lines or seams and numerous tiny white specks. May be colored or uncolored, but if colored, it should be a medium yellow-orange.
(d) *Finish and appearance*:		
Bandaged and paraffin dipped. Shall possess a sound, firm rind with the bandage and paraffin coating adhering tightly, but may possess the following characteristics to a very slight degree; soiled surface and surface mold; and to a slight degree; rough surface, irregular bandaging, lopsided and high edges.	*Bandaged and paraffin dipped*. Shall possess a sound, firm rind with the bandage and paraffin coating adhering tightly but may possess very slight mold under bandage and paraffin and the following other characteristics to a slight degree; soiled surface, surface mold, rough surface, irregular bandaging, lopsided and high edges.	*Bandaged and paraffin dipped*. Shall possess a sound, firm rind with the bandage and paraffin coating adhering tightly but may possess the following characteristics to a slight degree; soiled surface, rough surface, mold under bandage and paraffin, irregular bandaging, lopsided and high edges; and surface mold to a definite degree.
Rindless. The wrapper or covering shall be practically smooth, properly sealed with adequate overlapping at the seams or by any other satisfactory type of closure. The wrapper or covering shall be neat and adequately and securely envelop the cheese. May be slightly wrinkled but shall be of such character as to fully protect the surface of the cheese and not detract from its initial quality. Shall be free from mold under the wrapper or covering and shall not be huffed but may be slightly lopsided.	*Rindless*. Same as for current, except very slight mold under wrapper or covering permitted.	*Rindless*. Same as for medium.

TABLE III—DETAILED SPECIFICATIONS FOR U.S. GRADE B

Fresh or current	Medium cured	Cured or aged
(a) *Flavor:* Should possess a fairly pleasing characteristic cheddar cheese flavor, but may possess very slight onion and the following flavors to a slight degree: Acid, flat, bitter, fruity, utensil, whey-taint, yeasty, malty, old milk, weedy, barny and lipase; feed flavor to a definite degree.	Should possess a fairly pleasing characteristic cheddar cheese flavor and aroma. May possess very slight onion and the following flavors to a slight degree; flat, yeasty, malty, old milk, weedy, barny and lipase; the following to a definite degree; feed, acid, bitter, fruity, utensil, and whey-taint.	Should possess a fairly pleasing characteristic cheddar cheese flavor and aroma, with moderate to well developed degrees of flavor or sharpness. May possess very slight onion and the following flavors to a slight degree; flat, yeasty, malty, old milk, weedy, barny, lipase and sulfide; the following to a definite degree: Feed, acid, bitter, fruity, utensil, and whey-taint.
(b) *Body and texture:* A plug drawn from the cheese may possess the following characteristics to a slight degree: Coarse, short, mealy, weak, pasty, crumbly, gassy, slitty and corky; the following to a definite degree: Curdy open, and sweet holes.	A plug drawn from the cheese may possess the following characteristics to a slight degree: Curdy, coarse, gassy, slitty, and corky; the following to a definite degree: Open, short, mealy, weak, pasty, crumbly, and sweet holes.	A plug drawn from the cheese may possess the following characteristics to a slight degree; gassy and slitty; the following to a definite degree: Open, sweet holes, short, mealy, weak, pasty and crumbly.
(c) *Color:* May possess the following characteristics to a slight degree: Wavy, acid-cut, mottled, salt spots, dull or faded; and definitely seamy. May be colored or uncolored but if colored, may be slightly unnatural.	May possess a very slight bleached surface; and the following characteristics to a slight degree: Wavy, acid-cut, mottled, salt spots, dull or faded; and definitely seamy. May be colored or uncolored but if colored, may be slightly unnatural.	May possess the following characteristics to a slight degree: Wavy, acid-cut, mottled, salt spots, dull or faded and bleached surface; and definitely seamy. May be colored or uncolored but if colored, may be slightly unnatural.
(d) *Finish and appearance:* *Bandaged and paraffin dipped.* Shall possess a reasonably firm sound rind, but may possess very slight mold under bandage and paraffin. The following characteristics to a slight degree: Soiled surface, surface mold, defective coating, checked rind, huffed, weak rind, and sour rind; and to a definite degree: Rough surface, irregular bandaging, lopsided and high edges. *Rindless.* The wrapper or covering shall be fairly smooth and properly sealed with adequate overlapping at the seams or by other satisfactory type of closure. The wrapper or covering shall be fairly neat and adequately and securely envelop the cheese. May be definitely wrinkled but shall be of such character as to protect the surface of the cheese and not detract from its initial quality. Shall be free from mold under wrapper or covering but may be slightly huffed and slightly lopsided.	*Bandaged and paraffin dipped.* Shall possess a reasonably firm sound rind, but may possess the following characteristics to a slight degree; surface mold, mold under bandage and paraffin, checked rind, huffed, weak rind, and sour rind; the following to a definite degree: Soiled surface, rought surface, irregular bandaging, lopsided, high edges and defective coating. *Rindless.* Same as for current, except slight mold underwrapper or covering permitted.	*Bandaged and paraffin dipped.* Shall possess a reasonably firm sound rind, but may possess the following characteristics to a slight degree; checked rind, huffed, weak rind, and sour rind; the following to a definite degree: Soiled surface, surface mold, mold under bandage and paraffin, rough surface, irregular bandaging, lopsided, high edges and defective coating. *Rindless.* Same as for medium.

TABLE IV—DETAILED SPECIFICATIONS FOR U.S. GRADE C

Fresh or current	Medium cured	Cured or aged
(a) *Flavor:*		
May possess the following flavors to a slight degree: Sour, metallic, onion; and to a definite degree: Acid, flat, bitter, fruity, utensil, whey-taint, yeasty, malty, old milk, weedy, barny, and lipase; feed flavor to a pronounced degree.	May possess the following flavors to a slight degree: Onion, and sulfide; and to a definite degree: Flat, sour, metallic, yeasty, malty, old milk, weedy, barny and lipase; and to a pronounced degree; feed, acid, bitter, fruity, utensil, and whey-taint.	May possess slight onion and the following flavors to a definite degree; flat, sour, metallic, yeasty, malty, old milk, weedy, barny, lipase and sulfide; and to a pronounced degree: Feed, acid, bitter, fruity, utensil and whey-taint.
(b) *Body and texture:*		
A plug drawn from the cheese may possess the following characteristics to a definite degree: Curdy, coarse, corky, crumbly, mealy, short, weak, pasty, gassy, slitty, pinny; and to a pronounced degree; open and sweet holes. The cheese shall be sufficiently compact to permit the drawing of a plug.	A plug drawn from the cheese may be slightly curdy and may possess the following other characteristics to a definite degree: Coarse, corky, gassy, slitty and pinny; and to a pronounced degree: Open, sweet holes, short, weak, pasty, crumbly and mealy. The cheese shall be sufficiently compact to permit the drawing of a plug.	A plug drawn from the cheese may possess the following characteristics to a definite degree: Gassy, slitty, pinny; and to a pronounced degree; open, sweet holes, short, weak, pasty, crumbly and mealy. The cheese shall be sufficiently compact to permit the drawing of a plug.
(c) *Color:*		
May have a slight bleached surface and possess the following other characteristics to a definite degree: Wavy, acid-cut, mottled, salt spots, dull or faded; and seamy to a pronounced degree. May be colored or uncolored but if colored, may be definitely unnatural. The color shall not be particularly unattractive.	May possess the following characteristics to a definite degree: Wavy, acid-cut, mottled, salt spots, bleached surface, dull or faded; and seamy to a pronounced degree. May be colored or uncolored but if colored may be definitely unnatural. The color shall not be particularly unattractive.	Same as for medium.
(d) *Finish and appearance:*		
Bandaged and paraffin dipped. May possess the following characteristics to a slight degree: Cracks in rind, soft spots and wet rind; and mold under bandage and paraffin; and to a definite degree: Soiled surface, surface mold, defective coating, checked rind, weak rind, sour rind, and huffed; and to a pronounced degree: Rough surface, irregular bandaging, lopsided and high edges.	*Bandaged and paraffin dipped.* May possess very slight rind rot and the following other characteristics to a slight degree: Cracks in rind, soft spots and wet rind; and to a definite degree: Surface mold, mold under bandage and paraffin, checked rind, weak rind, sour rind and huffed; and to a pronounced degree: Soiled surface, rough surface, defective coating, irregular bandaging, lopsided and high edges.	*Bandaged and paraffin dipped.* May possess the following characteristics to a slight degree: Rind rot, cracks in rind; and to a definite degree; checked rind, weak rind, sour rind, wet rind, soft spots and huffed; and to a pronounced degree: Rough surface, soiled surface, surface mold, mold under bandage and paraffin, defective coating, irregular bandaging, lopsided and high edges.
Rindless. The wrapper or covering shall be fairly smooth and properly sealed with adequate overlapping at the seams or by other satisfactory type of closure. The wrapper or covering shall adequately and securely envelop the cheese. May be definitely soiled and wrinkled but shall be of such character as to protect the surface of the cheese and not detract from its initial quality. May have slight mold under the wrapper or covering and may be definitely huffed and lopsided.	*Rindless.* Same as for current, except definite mold under the wrapper or covering permitted.	*Rindless.* Same as for medium.

TABLE V—CLASSIFICATION OF FLAVOR ACCORDING TO DEGREE OF CURING

Identification of flavor characteristics	AA			A			B			C		
	Fresh or current	Medium cured	Cured or aged	Fresh or current	Medium cured	Cured or aged	Fresh or current	Medium cured	Cured or aged	Fresh or current	Medium cured	Cured or aged
Feed	VS	VS	VS	S	S	S	D	D	D	P	P	P
Acid				VS	S	S	S	D	D	D	P	P
Flat							S	S	S	D	D	D
Bitter					VS	S	S	D	D	D	P	P
Fruity							S	D	D	D	P	P
Utensil							S	D	D	D	P	P
Metallic										S	D	D
Sour										S	D	D
Whey-Taint							S	D	D	D	P	P
Yeasty							S	S	S	D	D	D
Malty							S	S	S	D	D	D
Old Milk							S	S	S	D	D	D
Weedy							S	S	S	D	D	D
Onion							VS	VS	VS	S	S	S
Barny							S	S	S	D	D	D
Lipase							S	S	S	D	D	D
Sulfide									S		S	D

VS—Very Slight. S—Slight. D—Definite. P—Pronounced.

TABLE VI—CLASSIFICATION OF BODY AND TEXTURE ACCORDING TO DEGREE OF CURING

Identification of body and texture characteristics	AA			A			B			C		
	Fresh or current	Medium cured	Cured or aged	Fresh or current	Medium cured	Cured or aged	Fresh or current	Medium cured	Cured or aged	Fresh or current	Medium cured	Cured or aged
Curdy	D	S		D	S		D	S		D	S	
Coarse							S	S		D	D	
Open	VS	S	S	S	S	S	D	D	D	P	P	P
Sweet holes		VS	VS	S	S	S	D	D	D	P	P	P
Short					S	S	S	D	D	D	P	P
Mealy					S	S	S	D	D	D	P	P
Weak					S	S	S	D	D	D	P	P
Pasty						S	S	D	D	D	P	P
Crumbly						S	S	D	D	D	P	P
Gassy							S	S	S	D	D	D
Slitty							S	S	S	D	D	D
Corky							S	S		D	D	

TABLE VI—CLASSIFICATION OF BODY AND TEXTURE ACCORDING TO DEGREE OF CURING—Continued

Identification of body and texture characteristics	AA			A			B			C		
	Fresh or current	Medium cured	Cured or aged	Fresh or current	Medium cured	Cured or aged	Fresh or current	Medium cured	Cured or aged	Fresh or current	Medium cured	Cured or aged
Pinny										D	D	D

VS—Very Slight. S—Slight. D—Definite. P—Pronounced.

TABLE VII—CLASSIFICATION OF COLOR ACCORDING TO DEGREE OF CURING

Identification of color characteristics	AA			A			B			C		
	Fresh or current	Medium cured	Cured or aged	Fresh or current	Medium cured	Cured or aged	Fresh or current	Medium cured	Cured or aged	Fresh or current	Medium cured	Cured or aged
Seamy	VS	VS	VS	S	S	S	D	D	D	P	P	P
Wavy				VS			S	S	S	D	D	D
Acid-cut							S	S	S	D	D	D
Unnatural							S	S	S	D	D	D
Mottled							S	S	S	D	D	D
Salt spots							S	S	S	D	D	D
Dull or faded							S	S	S	D	D	D
Bleached surfaced (rindless)								VS	S	S	D	D

VS—Very Slight. S—Slight. D—Definite. P—Pronounced.

TABLE VIII—CLASSIFICATION OF FINISH AND APPEARANCE ACCORDING TO DEGREE OF CURING

Identification of finish and appearance characteristics	AA			A			B			C		
	Fresh or current	Medium cured	Cured or aged	Fresh or current	Medium cured	Cured or aged	Fresh or current	Medium cured	Cured or aged	Fresh or current	Medium cured	Cured or aged
Soiled surface	VS	S	S	VS	S	S	S	D	D	D	P	P
Surface mold		S	D	VS	S	D	S	S	D	D	D	P
Mold under bandage and paraffin		VS	S		VS	S	VS	S	D	S	D	P
Mold under wrapper or covering (rindless)		VS	VS		VS	VS		S	S	S	D	D
Rough surface				S	S	S	D	D	D	P	P	P
Irregular bandaging (uneven, wrinkled and overlapping)				S	S	S	D	D	D	P	P	P
Lopsided				S	S	S	D	D	D	P	P	P
Lopsided (rindless)				S	S	S	S	S	S	D	D	D
High edges				S	S	S	D	D	D	P	P	P
Huffed							S	S	S	D	D	D

Defective coating (scaly, blistered and checked)							S	D	D	D	P	P
Cracks in rind										S	S	S
Checked rind							S	S	S	D	D	D
Soft spots										S	S	D
Weak rind							S	S	S	D	D	D
Sour rind							S	S	S	D	D	D
Wet rind										D	D	D
Rind rot										S	S	D
											VS	S

VS—Very Slight. S—Slight. D—Definite. P—Pronounced.

(c) *U.S. Grade B.* U.S. Grade B cheddar cheese shall conform to the following requirements and specifications:

(1) *Flavor.* May possess certain undesirable flavors to a limited degree in accordance with the aging of the cheese. For detailed specifications and classification of flavor characteristics according to the degree of curing see Tables III and V.

(2) *Body and texture.* A plug drawn from the cheese may be loose and open and may have numerous sweet holes, scattered yeast holes and other scattered gas holes; and may possess various body characteristics in accordance with degree of curing but pinny gas holes are not permitted. For detailed specifications and classification of body and texture characteristics according to the degree of curing see Tables III and VI.

(3) *Color.* May be colored or uncolored and possess various characteristics. For detailed specifications and classification of color characteristics according to the degree of during see Tables III and VII.

(4) *Finish and appearance*—(i) *Bandaged and paraffin-dipped.* The rind shall be sound, may be slightly weak, but free from soft spots, rind rot, cracks and openings of any kind. The bandage may be uneven and wrinkled but not burst or torn. The surface may be rough and unattractive but shall possess a fairly good coating of paraffin or wax. The paraffin may be scaly or blistered with mold and certain other characteristics permitted in accordance with the degree of curing but there shall be no indication that mold has entered the cheese. May be huffed, lopsided and have high edges. For detailed specifications and classification of finish and appearance characteristics according to the degree of curing see Tables III and VIII.

(ii) *Rindless.* The covering or wrapper shall adequately and securely envelop the cheese, be fairly neat, unbroken and protect the surface but may be wrinkled. The cheese may be huffed, lopsided and have slight mold under the wrapper or covering in medium and cured classifications. There shall be no indication that mold has entered the cheese. For detailed specifications and classification of finish and appearance characteristics of rindless according to the degree of curing see Tables III and VIII.

(d) *U.S. Grade C.* U.S. Grade C cheddar cheese shall conform to the following requirements and specifications:

(1) *Flavor.* May possess somewhat objectionable flavors and odors with certain increased tolerances in accordance with the degree of curing. For detailed specifications and classification of flavor characteristics according to the degree of curing see Tables IV and V.

(2) *Body and texture.* May be loose with large and connecting mechanical openings; possess various gas holes and body characteristics, with certain limitations and varying with the degree of curing. The cheese, however, shall be sufficiently compact to permit the drawing of a plug. For detailed specifications and classification of body and texture characteristics according to the degree of curing see Tables IV and VI.

(3) *Color.* May be colored or uncolored and possess various characteristics but not to the extent that the color is particularly unattractive. For detailed specifications and classification of color characteristics according to the degree of curing see Tables IV and VII.

(4) *Finish and appearance*—(i) *Bandaged and paraffin-dipped.* The rind may be weak and possess characteristics such as soft spots, rind rot, cracks, and openings, with certain limitations and varying with the degree of curing. The bandage may be uneven and wrinkled but not burst or torn. May have a very rough, unattractive appearance and the paraffin may be scaly and blistered, with mold and other characteristics permitted, varying with the degree of curing, but there shall be no evidence that mold has entered the cheese. May be huffed and lopsided and have high edges to a degree not permitted in the higher grades. For detailed specifications and classification of finish and appearance characteristics according to the degree of curing see Tables IV and VIII.

(ii) *Rindless.* The wrapper or covering shall adequately and securely envelop the cheese, be unbroken and protect the surface but may be wrinkled and soiled. The cheese may be huffed, lopsided and have mold under the wrapper or covering in accordance with the degree of curing. There shall be no indication that mold has entered the cheese. For detailed specifications and classification of finish and appearance characteristics of rindless according to the degree of curing see Tables IV and VIII.

§ 58.2506 Explanation of terms.

(a) *With respect to packaging*—(1) *Paraffin.* Refined paraffin, amorphous wax, microcrystalline wax or any combination of such or any other suitable substance.

(2) *Rindless.* Cheese which has not formed a rind due to the impervious type of wrapper, covering, or container, enclosing the cheese, or by any other means of handling.

(b) *With respect to flavor*—(1) *Very slight.* Detected only upon very critical examination.

(2) *Slight.* Detected only upon critical examination.

(3) *Definite.* Not intense but detectable.

(4) *Pronounced.* So intense as to be easily identified.

(5) *Lacking in flavor development.* No undesirable and very little, if any, cheddar cheese flavor development.

(6) *Feed.* Feed flavors (such as alfalfa, sweet clover, silage, or similar feed) in milk carried through into the cheese.

(7) *Acid.* Sharp and puckery to the taste, characteristic of lactic acid.

(8) *Flat.* Insipid, practically devoid of any characteristic cheddar cheese flavor.

(9) *Bitter.* Distasteful, similar to taste of quinine. Most frequently found in aged cheese.

(10) *Fruity.* A sweet fruit-like flavor resembling apples; generally increasing in intensity as the cheese ages.

(11) *Utensil.* A flavor that is suggestive of improper or inadequate washing and sterilization of milking machines, utensils or factory equipment.

(12) *Metallic.* A flavor having qualities suggestive of metal, imparting a puckery sensation.

(13) *Sour.* An acidly pungent flavor resembling vinegar.

(14) *Whey-taint.* A slightly acid flavor and odor characteristic of fermented whey caused by too slow expulsion of whey from the curd.

(15) *Yeasty.* A flavor indicating yeasty fermentation.

(16) *Malty.* A distinctive, harsh flavor suggestive of malt.

(17) *Old Milk.* Lacks freshness.

(18) *Weedy.* A flavor due to the use of milk which possesses a common weedy flavor. Present in cheese when cows have eaten weedy hay or grazed on common weed-infested pastures.

(19) *Onion.* This flavor is recognized by the peculiar taste and aroma suggestive of its name. Present in milk or cheese when the cows have eaten onions, garlic or leeks.

(20) *Barny.* A flavor characteristic of the odor of a cow stable.

(21) *Lipase.* A flavor suggestive of rancidity or butyric acid, sometimes associated with a bitterness.

(22) *Sulfide.* An objectionable flavor of hydrogen sulfide similar to the flavor of water with a high sulfur content.

(c) *With respect to body and texture*—(1) *Broken down.* Changed from a firm, smooth, or coarse, curdy or rubbery condition to a waxy condition similar to that of cold butter or to a mealy, or pasty condition.

(2) *Smooth.* Feels silky; not dry and coarse or rough.

(3) *Solid, compact and close.* Practically free from openings of any kind.

(4) *Firm.* Feels solid, not soft or weak.

(5) *Reasonably firm.* Somewhat less firm but not to the extent of materially injuring the keeping quality of the cheese.

(6) *Waxy.* When worked between the fingers, molds well like wax or cold butter.

(7) *Translucent.* The appearance of being partially transparent.

(8) *Curdy.* Smooth but firm; when worked between the fingers is rubbery and not waxy.

(9) *Coarse.* Feels rough, dry and sandy.

(10) *Open.* Mechanical openings that are irregular in shape and are caused

by workmanship and not gas fermentation.

(11) *Sweet holes.* Spherical gas holes, glossy in appearance; usually about the size of BB shots; also referred to as shot or Swiss holes.

(12) *Short.* No elasticity to the plug and when rubbed between the thumb and fingers it tends toward mealiness.

(13) *Mealy.* Short body, does not mold well and looks and feels like corn meal when rubbed between the thumb and fingers.

(14) *Weak.* Requires little pressure to crush, is soft but is not necessarily sticky like a pasty cheese.

(15) *Pasty.* Usually weak body and when the cheese is rubbed between the thumb and fingers it becomes sticky and smeary.

(16) *Crumbly.* Loosely knit and tends to fall apart when rubbed between the thumb and fingers.

(17) *Gassy.* Gas holes of various sizes and may be scattered.

(18) *Slitty.* Narrow elongated slits generally associated with a cheese that is gassy or yeasty. Sometimes referred to as "fish-eyes."

(19) *Corky.* Hard, tough, over-firm cheese which does not readily break down when rubbed between the thumb and fingers.

(20) *Pinny.* Numerous very small gas holes.

(d) *With respect to color*—(1) *Uncolored.* Absence of artificial coloring.

(2) *Seamy.* White thread-like lines that form if the pieces of curd are not properly joined together.

(3) *Wavy.* Unevenness of color which appears as layers or waves.

(4) *Acid-cut.* Bleached or faded appearance which sometimes varies throughout the cheese, appearing most often around mechanical openings.

(5) *Unnatural.* Deep orange or reddish color.

(6) *Mottled.* Irregular shaped spots or blotches in which portions are light colored and others are higher colored. Also an unevenness of color due to combining the curd from two different vats, sometimes referred to as "mixed curd."

(7) *Salt spots.* Large light colored spots or areas.

(8) *Dull or faded.* A color condition lacking in lustre or translucency.

(9) *Bleached surface.* A faded color beginning at the surface and progressing inward.

(10) *Tiny white specks.* Specks resembling grains of salt scattered throughout the cheese. They are generally associated with aged cheese.

(11) *Unattractive.* Abnormal or unappetizing appearance.

(e) *With respect to finish and appearance*—(1) *Wax or paraffin that adheres firmly to the surface of the cheese.* Thin or thick coating with no indication of cracking, breaking, or loosening.

(2) *Rind.* Hard coating caused by the desiccation of the surface of the cheese.

(3) *Firm sound rind.* Possessing a firmness and thickness (not easily dented or damaged) consistent with the size of the cheese and which is dry, smooth, and closely knit, sufficient to protect the interior quality from external defects; free from checks, cracks, breaks or soft spots.

(4) *Burst or torn bandage.* A severance of the bandage usually occurring at the side seam or is otherwise snagged or broken.

(5) *Wrapper or covering.* Transparent or opaque material (plastic film type or foil) next to the surface of the cheese, used as an enclosure or covering of the cheese.

(6) *Adequately and securely envelop.* Wrapper or covering properly sealed, and entirely enclosing the cheese, with sufficient adherence for ample protection and prevention of mold.

(7) *Smooth bright surface.* Clean, glossy surface.

(8) *Smooth surface.* Not rough or uneven.

(9) *Soiled surface.* Milkstone, rust spots or other discoloration on the surface of the cheese.

(10) *Surface mold.* Mold on the paraffin or the exterior of the cheese.

(11) *Mold under bandage and paraffin.* Mold spots or areas that have formed under the paraffin or mold that has penetrated from the surface and continued to develop.

(12) *Mold under wrapper or covering.* Mold spots or areas that have

formed under the wrapper or on the cheese.

(13) *Rough surface.* Lacks smoothness.

(14) *Bandage evenly placed.* Overlapping the edges evenly about one inch.

(15) *Irregular bandaging.* Bandage improperly placed in the hoop resulting in too much bandage on one end and insufficient on the other causing overlapping; wrinkled and loose fitting.

(16) *Lopsided.* One side of the cheese is higher than the other side.

(17) *High edge.* A rim or ridge on the follower side of the cheese, which is raised in varying degrees. In extreme cases it may bend over.

(18) *Defective coating.* Brittle coating of paraffin that breaks and peels off in the form of scales or flakes; flat or raised blisters or bubbles under the surface of the paraffin; checked paraffin, including cracks, breaks or hairline checks in the paraffin or coating of the cheese.

(19) *Cracks in the rind.* Openings or breaks in the rind.

(20) *Checked rind.* Numerous small cracks or breaks in the rind, sometimes following the outline of curd particles, sometimes referred to as "curd openings."

(21) *Soft spots.* Soft to the touch and the spots are usually faded and moist.

(22) *Huffed.* Swollen because of gas fermentation. The cheese becomes rounded or oval in shape instead of being flat.

(23) *Weak rind.* Thin and possessing little or no resistance to pressure.

(24) *Sour rind.* A fermented rind condition, usually confined to the faces of the cheese.

(25) *Wet rind.* A wet rind is one in which the moisture adheres to the surface of the rind and which may or may not soften the rind or cause discoloration.

(26) *Rind rot.* Soft spots on the rind that have become discolored and have decayed or decomposed.

Subpart L—United States Standards for Grades of Nonfat Dry Milk (Spray Process)[1]

SOURCE: 49 FR 10078, Mar. 19, 1984, unless otherwise noted.

DEFINITIONS

§ 58.2525 Nonfat dry milk.

(a) "Nonfat dry milk" is the product resulting from the removal of fat and water from milk, and contains the lactose, milk proteins, and milk minerals in the same relative proportions as in the fresh milk from which made. It contains not over 5 percent by weight of moisture. The fat content shall not exceed 1½ percent by weight.

(b) The term "milk" when used in this subpart means fresh, sweet milk produced by healthy cows, that has been pasteurized before or during the manufacture of the nonfat dry milk.[2]

U.S. GRADES

§ 58.2526 Nomenclature of U.S. grades.

The nomenclature of U.S. grades is as follows:

U.S. Extra
U.S. Standard

§ 58.2527 Basis for determination of U.S. grades.

(a) The U.S. grades of nonfat dry milk—spray process—are determined on the basis of flavor, physical appearance, bacterial estimate on the basis of standard plate count, milkfat content, moisture content, scorched particle content, solubility index and titratable acidity.

(b) The final U.S. grade shall be established on the basis of the lowest rating of any one of the quality characteristics.

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[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

[2] Nonfat dry milk covered by these standards shall not contain buttermilk, whey, other dairy derived products or any added preservative, neutralizing agent or other chemical.

§ 58.2528 Specifications for U.S. grades.

(a) *U.S. Extra grade.* U.S. Extra grade nonfat dry milk shall conform to the following requirements (See Tables I, II, and III):

(1) *Flavor* (Applies to the reconstituted product). Shall be sweet, pleasing and desirable but may possess the following flavors to a slight degree: chalky, cooked, feed and flat.

(2) *Physical appearance.* Shall possess a uniform white to light cream natural color; free from lumps except those that readily break up with very slight pressure, and practically free from visible dark particles. The reconstituted product shall be free from graininess.

(3) *Bacterial estimate.* Not more than 50,000 per gram standard plate count.

(4) *Milkfat content.* Not more than 1.25 percent.

(5) *Moisture content.* Not more than 4.0 percent.

(6) *Scorched particle content.* Not more than 15.0 mg.

(7) *Solubility index.* Not more than 1.2 ml., except that product classified as U.S. High Heat may have not more than 2.0 ml.

(8) *Titratable acidity.* Not more than 0.15 percent.

(b) *U.S. Standard grade.* U.S. Standard grade shall conform to the following requirements (See Tables I, II, and III):

(1) *Flavor* (Applies to the reconstituted product). Should possess a fairly pleasing flavor but may possess the following flavors to a slight degree: bitter, oxidized, stale, storage, utensil, and scorched; the following to a definite degree: chalky, cooked, feed, and flat.

(2) *Physical appearance.* May possess a slight unnatural color, free from lumps except those that break up readily under slight pressure, and reasonably free from visible dark particles. The reconstituted product shall be reasonably free from graininess.

(3) *Bacterial estimate.* Not more than 100,000 per gram standard plate count.

(4) *Milkfat content.* Not more than 1.50 percent.

(5) *Moisture content.* Not more than 5.0 percent.

(6) *Scorched particle content.* Not more than 22.5 mg.

TABLE I—CLASSIFICATION OF FLAVOR

Identification of flavor characteristics	U.S. extra grade	U.S. standard grade
Bitter		Slight.
Chalky	Slight	Definite.
Cooked	Slight	Definite.
Feed	Slight	Definite.
Flat	Slight	Definite.
Oxidized		Slight.
Scorched		Slight.
Stale		Slight.
Storage		Slight.
Utensil		Slight.

TABLE II—CLASSIFICATION OF PHYSICAL APPEARANCE

Identification of physical appearance characteristics	U.S. extra grade	U.S. standard grade
Dry product:		
Lumpy	Very slight	Slight.
Unnatural color		Slight.
Visible dark particles.	Very slight	Slight.
Reconstituted product:		
Grainy		Slight.

TABLE III—CLASSIFICATION ACCORDING TO LABORATORY ANALYSIS

Laboratory tests	U.S. extra grade	U.S. standard grade
Bacterial estimate; standard plate count per gram	50,000	100,000
Milkfat content; percent	1.25	1.50
Moisture content; percent	4.0	5.0
Scorched particle content; mg	15.0	22.5
Solubility index; ml	1.2	2.0
U.S. High Heat	2.0	2.5
Titratable acidity; percent	.015	0.17

(7) *Solubility index.* Not more than 2.0 ml. except that product classified as U.S. High Heat may have not more than 2.5 ml.

(8) *Titratable acidity.* Not more than 0.17 percent.

§ 58.2529 U.S. grade not assignable.

Nonfat dry milk shall not be assigned a U.S. grade for one or more of the following reasons:

(a) Fails to meet the requirements for U.S. Standard grade.

(b) Has a direct microscopic clump count exceeding 100 million per gram.

(c) Produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment, or facilities, or to be operating under unsanitary plant conditions..

(d) Produced in a plant which is not USDA approved.

§ 58.2532 Test methods.

All required tests shall be performed in accordance with "Methods of Laboratory Analysis", DA Instruction No. 918-103 (dry milk product series), Dairy Grading and Standardization Branch, AMS, U.S. Department of Agriculture, Washington, D.C. 20250; and "Official Methods of Analysis of the Association of Official Analytical Chemists", 13th Ed. or latest revision.

EXPLANATION OF TERMS

§ 58.2537 Explanation of terms.

(a) *With respect of flavor:*

(1) *Slight.* Detectable only upon critical examination.

(2) *Definite.* Easily detectable but not intense.

(3) *Bitter.* Similar to taste of quinine.

(4) *Chalky.* A tactual type of flavor lacking in characteristic milk flavor.

(5) *Cooked.* Similar to a custard flavor and imparts a smooth aftertaste.

(6) *Feed.* Feed flavors (such as alfalfa, sweetclover, silage, or similar feed) in milk carried through into the nonfat dry milk.

(7) *Flat.* Lacking characteristic sweetness or full flavor.

(8) *Oxidized.* A flavor resembling cardboard and sometimes referred to as "cappy" or "tallowy".

(9) *Scorched.* A more intensified flavor than "cooked" and imparts a burnt aftertaste.

(10) *Stale, storage.* Lacking in freshness and imparting a "rough" aftertaste.

(11) *Utensil.* A flavor suggestive of improper or inadequate washing and sanitation of milking machines, utensils or factory equipment.

(b) *With respect to physical appearance:*

(1) *Practically free.* Present only upon very critical examination.

(2) *Reasonably free.* Present only upon critical examination.

(3) *Very slight pressure.* Lumps fall apart with only light touch.

(4) *Slight pressure.* Only sufficient pressure to disintegrate the lumps readily.

(5) *Natural color.* A color that is white or light cream.

(6) *Grainy.* Minute particles of undissolved powder appearing on the surface of a glass or tumbler in a thin film.

(7) *Unnatural color.* A color that is more intense than light cream and is brownish, dull or grey-like.

(8) *Lumpy.* Loss of powdery consistency but not caked into hard chunks.

(9) *Visible dark particles.* The presence of scorched or discolored specks.

SUPPLEMENT TO U.S. STANDARDS FOR GRADES OF NONFAT DRY MILK (SPRAY PROCESS); U.S. HEAT TREATMENT CLASSIFICATION

§ 58.2538 Basis for obtaining heat treatment classification.

Heat treatment classification is not a U.S. Grade requirement except in cases when the higher solubility index specified for U.S. High Heat product is permitted. In all other instances, product submitted for USDA grading may be analyzed for heat treatment classification upon request of the applicant and the results shown on the grading certificate. Heat treatment classification will be made available only upon a U.S. graded product.

§ 58.2339 Nomenclature of U.S. Heat Treatment Classification.

The nomenclature of U.S. Heat Treatment Classification is as follows:

U.S. High-heat
U.S. Medium-heat
U.S. Low-heat

§ 58.2540 Basis for determination of U.S. Heat Treatment Classification.

The whey protein nitrogen test shall be used in determining the heat treatment classification as follows:

(a) *U.S. High-heat.* The finished product shall not exceed 1.5 mg. undenatured whey protein nitrogen per gram on nonfat dry milk.

(b) *U.S. Low-heat.* The finished product shall show not less than 6.0 mg. undenatured whey protein nitrogen per gram of nonfat dry milk.

(c) *U.S. Medium-heat.* The finished product shall show undenatured whey protein nitrogen between the levels of "high-heat" and "low-heat". (1.51 to 5.99 mg.).

§ 58.2541 Test method; whey protein nitrogen.

The method used shall be the modified Harland-Ashworth Method as outlined in "Standards for Grades of Dry Milks Including Methods of Analysis", available from the American Dry Milk Institute Inc.; 130 N. Franklin Street, Chicago, IL. 60606.

Subpart M—United States Standards for Grades of Nonfat Dry Milk (Roller Process) [1]

SOURCE: 49 FR 10079, Mar. 19, 1984, unless otherwise noted.

DEFINITIONS

§ 58.2550 Nonfat dry milk.

(a) "Nonfat dry milk" is the product resulting from the removal of fat and water from milk, and contains the lactose, milk proteins, and milk minerals in the same relative proportions as in the fresh milk from which made. It contains not over 5 percent by weight of moisture. The fat content shall not exceed 1½ percent by weight.

(b) The term "milk" when used in this subpart means fresh, sweet milk produced by healthy cows, that has been pasteurized before or during the manufacture of the nonfat dry milk.[2]

U.S. GRADES

§ 58.2551 Nomenclature of U.S. grades.

The nomenclature of U.S. grades is as follows:

U.S. Extra
U.S. Standard.

§ 58.2552 Basis for determination of U.S. grades.

(a) The U.S. grades of nonfat dry milk—roller process—are determined on the basis of flavor, physical appearance, bacterial estimate on the basis of standard plate count, milkfat content, moisture content, scorched particle content, solubility index and titratable acidity.

(b) The final U.S. grade shall be established on the basis of the lowest rating of any one of the quality characteristics.

§ 58.2553 Specifications for U.S. grades.

(a) *U.S. Extra grade.* U.S. Extra grade nonfat dry milk shall conform to the following requirements (See Tables I, II, and III):

(1) *Flavor* (Applies to the reconstituted product). Shall be sweet and desirable, but may possess the following flavors to a slight degree: chalky, feed, flat, and scorched.

(2) *Physical appearance.* Shall possess a uniform white to light cream natural color; free from lumps except those that break up readily with very slight pressure and reasonably free from visible dark particles. The reconstituted product shall be reasonably free from graininess.

(3) *Bacterial estimate.* Not more than 50,000 per gram standard plate count.

(4) *Milkfat content.* Not more than 1.25 percent.

(5) *Moisture content.* Not more than 4.0 percent.

(6) *Scorched particle content.* Not more than 22.5 mg.

(7) *Solubility index.* Not more than 15.0 ml.

(8) *Titratable acidity.* Not more than 0.15 percent.

(b) *U.S. Standard grade.* U.S. Standard grade nonfat dry milk shall conform to the following requirements (See Tables I, II, III):

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[1] Compliance with these Standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

[2] Nonfat dry milk covered by these standards shall not contain buttermilk, whey, other dairy derived products, or any added preservative, neutralizing agent or other chemical.

(1) *Flavor* (Applies to the reconstituted product). Should possess a fairly desirable flavor but may possess the following to a slight degree: bitter, oxidized, stale, storage and utensil; the following to a definite degree: chalky, feed, flat, and scorched.

(2) *Physical appearance.* May possess a slight unnatural color; free from lumps except those that break up readily under slight pressure and moderately free from visible dark particles. The reconstituted product shall be reasonably free from graininess.

(3) *Bacterial estimate.* Not more than 100,000 per gram standard plate count.

(4) *Milkfat content.* Not more than 1.50 percent.

(5) *Moisture content.* Not more than 5.0 percent.

(6) *Scorched particle content.* Not more than 32.5 mg.

(7) *Solubility index.* Not more than 15.0 ml.

(8) *Titratable acidity.* Not more than 0.17 percent.

§ 58.2554 U.S. grade not assignable.

Nonfat dry milk shall not be assigned a U.S. grade for one or more of the following reasons:

(a) Fails to meet the requirements for U.S. Standard grade.

(b) Has a direct microscopic clump count exceeding 100 million per gram.

(c) Produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment, or facilities, or to be operating under unsanitary plant conditions.

(d) Produced in a plant which is not USDA approved.

§ 58.2558 Test methods.

All required tests shall be performed in accordance with "Methods of Laboratory Analysis", DA Instruction No. 918-103 (dry milk product series), Dairy Grading and Standardization Branch, AMS, U.S. Department of Agriculture, Washington, DC 20250; and "Official Methods of Analysis of the Association of Official Analytical Chemists", 13th Ed. or latest revision.

TABLE I—CLASSIFICATION OF FLAVOR

Identification of flavor characteristics	U.S. extra grade	U.S. standard grade
Bitter		Slight.
Chalky	Slight	Definite.
Feed	Slight	Definite.
Flat	Slight	Definite.
Oxidized		Slight.
Scorched	Slight	Definite.
Stale		Slight.
Storage		Slight.
Utensil		Slight.

TABLE II—CLASSIFICATION OF PHYSICAL APPEARANCE

Identification of physical appearance characteristics	U.S. extra grade	U.S. standard grade
Dry product:		
Lumpy	Very slight	Slight.
Unnatural color		Slight.
Visible dark particles.	Slight	Definite.
Reconstituted product:		
Grainy	Slight	Slight.

TABLE III—CLASSIFICATION ACCORDING TO LABORATORY ANALYSIS

Laboratory tests	U.S. extra grade	U.S. standard grade
Bacterial estimate, standard plate count per gram	50,000	100,000
Milkfat content; percent	1.25	1.50
Moisture content; percent	4.0	5.0
Scorched particle content; mg	22.5	32.5
Solubility index: ml	15.0	15.0
Titratable acidity; percent	0.15	0.17

EXPLANATION OF TERMS

§ 58.2562 Explanation of terms.

(a) *With respect to flavor:*

(1) *Slight.* Detectable only upon critical examination.

(2) *Definite.* Easily detectable but not intense.

(3) *Bitter.* Similar to taste of quinine.

(4) *Chalky.* A tactual type of flavor, lacking in characteristic milk flavor.

(5) *Feed.* Feed flavors (such as alfalfa, sweet-clover, silage, or similar feed) in milk carried through into the nonfat dry milk.

(6) *Flat.* Lacking characteristic sweetness or full flavor.

(7) *Oxidized.* A flavor resembling cardboard and sometimes referred to as "cappy" or "tallowy".

(8) *Scorched.* A more intensified flavor than "cooked" and imparts a burnt aftertaste.

(9) *Stale, storage.* Lacking in freshness and imparting a "rough" aftertaste.

(10) *Utensil.* A flavor suggestive of improper or inadequate washing and sanitation of milking machines, utensils, or factory equipment.

(b) *With respect to physical appearance:*

(1) *Practically free.* Present only upon very critical examination.

(2) *Reasonably free.* Present only upon critical examination.

(3) *Moderately free.* Discernible upon careful examination.

(4) *Very slight pressure.* Lumps fall apart with only light touch.

(5) *Slight pressure.* Only sufficient pressure to disintegrate lumps readily.

(6) *Natural color.* A color that is white or light cream.

(7) *Grainy.* Minute particles of undissolved powder appearing on the surface of a glass or tumbler in a thin film.

(8) *Unnatural color.* A color that is more intense than light cream and is brownish, dull or grey-like.

(9) *Lumpy.* Loss of powdery consistency but not caked into hard chunks.

(10) *Visible dark particles.* The presence of scorched or discolored specks.

Subpart N—United States Standards for Grades of Swiss Cheese, Emmentaler Cheese[1]

SOURCE: 31 FR 9443, July 12, 1966, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981.

DEFINITION

§ 58.2570 Swiss cheese, Emmentaler cheese.

"Swiss cheese," "Emmentaler cheese" is the cheese defined and identified in § 19.540[1] of the Definitions and Standards of Identity for Food and Food Products of the Food and Drug Administration (21 CFR Part 19).[1]

(a) For the purposes of this subpart the words "Swiss" and "Emmentaler" are interchangeable.

(b) The Swiss cheese in these standards shall mean cheese of the rind or rindless type.

§ 58.2571 Types of packaging.

The following are the types of packaging for Swiss cheese:

(a) *Rind.* The cheese in wheel or block form is completely covered by a thick rind sufficient to protect the interior of the cheese. The cheese may or may not be paraffined.

(b) *Rindless.* The cheese in rindless form is properly enclosed in a wrapper or covering or by any other means of handling which will not impart any objectionable flavor, odor or color to the cheese. The wrapper or covering is of sufficiently low permeability to water vapor and air as to protect the surface, prevent the formation of rind, and prevent the entrance of air and further drying of the surface during curing and holding periods.

U.S. GRADES

§ 58.2572 Nomenclature of U.S. grades.

The nomenclature of the U.S. Grades is as follows:

(a) U.S. Grade A.
(b) U.S. Grade B.
(c) U.S. Grade C.
(d) U.S. Grade D.

§ 58.2573 Basis for determination of U.S. grades.

The U.S. Grades of Swiss cheese shall be determined on the basis of flavor, body, eyes and texture, finish and appearance, salt and color. From a drum type cheese, at least two full trier plugs, one from each flat face of the cheese at opposite points on circles located approximately one-half the distance from the center of the flat face to the edge of the same shall be drawn with a No. 8 trier from each cheese. If necessary, the drum cheese may be tried elsewhere to determine the correct grade, but not more than four full trier plugs shall be drawn. Not more than two triers from the opposite sides of the cheese shall be taken from other styles of rind type cheese of rindless type cheese.

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[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

[1] See footnote at § 58.405.

(a) *U.S. Grade A.* U.S. Grade A Swiss cheese conforms to the following requirements:

(1) *Flavor.* Is free from off-flavors.

(i) *Current make.* May be lacking in characteristic Swiss cheese flavor.

(ii) *Cured.* Has a characteristic Swiss cheese flavor.

(2) *Body.* Is uniform, firm, and smooth, and is not dry and coarse, spongy, weak, pasty, or gassy.

(i) *Current make.* Is flexible and resilient.

(ii) *Cured.* Is flexible.

(3) *Eyes and texture.* A full plug drawn from the cheese appears free from glass, pinholes, and overdeveloped eyes; may have picks and checks within 1 inch from the surface; may have a limited number of picks and checks beyond 1 inch from the surface; shows not less than one and not more than eight eyes indicated to a trier. The eyes are round or slightly oval; majority of the eyes are at least one-half inch in diameter and are evenly distributed.

(i) *Current make.* May have an occasional dull glossy or shell eye. Shall be free from dead eyes.

(ii) *Cured.* May have dull glossy or shell eyes. May have some dead eyes.

(4) *Finish and appearance.* Rindless type cheese shall be well shaped. The wrapper or covering shall fully envelop the cheese, conform closely to its shape and adequately protect the surface, but may be wrinkled to a slight degree. The cheese shall be reasonably free from mold under the wrapper or covering in the current classification but may have slight mold under the wrapper or covering in the cured classification provided it can be removed without injuring the commercial value of the cheese. There shall be no evidence that mold has entered the cheese. Wrapped institutional cuts shall be free from mold.

(5) *Salt.* Is uniform.

(i) *Current make.* May be deficient in salt.

(ii) *Cured.* Is not deficient in salt.

(6) *Color.* Is uniform.

(b) *U.S. Grade B.* U.S. Grade B Swiss cheese conforms to the following requirements:

(1) *Flavor.* May possess off-flavors.

(i) *Current make.* May be lacking in characteristic Swiss cheese flavor; may have only slight off-flavors. Is free from objectionable flavors.

(ii) *Cured.* Has a characteristic Swiss cheese flavor; may lack the fineness in flavor required in Grade A, and may have definite off-flavors. Is free from objectionable flavors.

(2) *Body.* Is not dry and coarse, spongy, pasty, or gassy.

(i) *Current make.* Is flexible and resilient; may be slightly weaker than Grade A.

(ii) *Cured.* Is flexible; may be slightly weak.

(3) *Eyes and texture.* A full plug drawn from the cheese appears free from glass, pinholes, overdeveloped eyes, and may be moderately overset and have a limited amount of picks and checks; is not blind. The majority of the eyes are not less than five-sixteenths of an inch in diameter.

(i) *Current make.* May have dull glossy or shell eyes. May have occasional dead eyes.

(ii) *Cured.* May have dull glossy or shell eyes. May have some dead eyes.

(4) *Finish and appearance.* Rindless type cheese may be slightly uneven in shape. The wrapper or covering shall fully envelop the cheese, conform closely to its shape and adequatley protect the surface, but may be wrinkled and soiled to a slight degree. The cheese shall be reasonably free from mold under the wrapper or covering in the current classification but may have slight mold under the wrapper or covering in the cured classification, provided it can be removed without injuring the commercial value of the cheese. There shall be no evidence that mold has entered the cheese.

Wrapped institutional cuts shall be free from mold.

(i) *Current make.* Surface may be slightly rough.

(ii) *Cured.* Surface may be rough.

(5) *Salt.* Is uniform.

(i) *Current make.* May be deficient in salt.

(ii) *Cured.* May be deficient in salt or slightly over-salted.

(6) *Color.* Is uniform.

(c) *U.S. Grade C.* U.S. Grade C Swiss cheese conforms to the following requirements:

(1) *Flavor.* May possess off-flavors.

(i) *Current make.* May be lacking in characteristic Swiss cheese flavor; may have definite off-flavors. Is free from offensive flavors.

(ii) *Cured.* Has a characteristic Swiss cheese flavor; but may have pronounced off-flavors that are not offensive.

(2) *Body.* May be slightly dry and coarse. May be slightly gassy, but is not bloated or spongy. May be weak.

(3) *Eyes and texture.* A plug drawn from the cheese may be overset, shell or dead-eyed; have glass, picks, checks, pinholes; may have overdeveloped eyes, but they must not be more than three inches in diameter. It is not totally blind or totally pinholey.

(4) *Finish and appearance.* Rindless type cheese may be definitely uneven in shape. The wrapper or covering shall envelop the cheese and protect the surface but may be wrinkled and soiled to a definite degree. The cheese may have slight mold under the wrapper or covering in the current classification and definite mold under the wrapper or covering in the cured classification but show no indication that the mold has entered the cheese.

(5) *Salt.* Is uniform.

(i) *Current make.* May be flat or deficient in salt.

(ii) *Cured.* May be flat or deficient in salt or may be oversalted.

(6) *Color.* May be slightly uneven in color.

(d) *U.S. Grade D.* U.S. Grade D Swiss cheese conforms to the following requirements:

(1) *Flavor.* May possess off-flavors. Is free from offensive flavors.

(2) *Body.* May be dry and coarse or spongy and weak.

(3) *Eyes and texture.* May be totally blind or totally pinholey; may have glass, picks and checks, and may have overdeveloped eyes.

(4) *Finish and appearance.* Rindless-type cheese may be uneven in shape. The wrapper or covering shall envelop the cheese to substantially protect the surface but may have tears or breaks and may be wrinkled and soiled to a pronounced degree. May have definite mold under the wrapper or covering in the current and cured classification but show no evidence that mold has entered the cheese.

(5) *Salt.* May be uneven, deficient, or oversalted.

(6) *Color.* May be definitely wavey or mottled or otherwise uneven in color.

EXPLANATION OF TERMS

§ 58.2574 Explanation of terms.

(a) *General*—(1) *Current make.* Not less than 60 days old.

(2) *Cured.* Usually more than 6 months old.

(3) *Institutional cuts.* Multipound, wrapped portions of cheese cut from a larger piece.

(b) *With respect to flavor*—(1) *Slight.* Detected only upon critical examination.

(2) *Definite.* Not intense but detectable.

(3) *Pronounced.* So intense as to be easily identified.

(4) *Objectionable flavors.* Flavors, such as fruity, sour, and yeasty.

(5) *Offensive flavors.* Weed flavors, such as peppergrass, french weed, wild onion, or garlic and other off-flavors such as fruity, sour, and yeasty to a pronounced degree.

(6) *Fruity.* A sweetish fruit flavor.

(7) *Sour.* Strong acid flavor.

(8) *Yeasty.* Indicating yeast fermentation.

(c) *With respect to body*—(1) *Dry and coarse.* Feels rough and sandy.

(2) *Firm and smooth.* Feels solid; not soft or weak; not rough.

(3) *Flexible.* Not dry or brittle.

(4) *Gassy.* Undesirable gas formation.

(5) *Pasty.* When worked between the fingers, becomes sticky; a paste-like consistency.

(6) *Resilient.* Springs back to its original form when compressed.

(7) *Spongy.* A predominance of open eyes or holes, having characteristics of a sponge.

(8) *Weak.* Requires little pressure to mash, not firm.

(b) *With respect to eyes and texture*—(1) *Indicated.* A whole eye or a part or fraction of an eye.

(2) *Limited amount.* May appear on two triers.

(3) *Limited number.* Appears on not more than one trier.

(4) *Occasional.* Not more than one on a trier.

(5) *Blind.* No eye formation present.

(6) *Checks.* Small short cracks.

(7) *Dead eyes.* Developed eyes that have completely lost their glossy or velvety appearance; may be rough.

(8) *Dull glossy.* Eyes that have lost some of their bright shiny luster.

(9) *Glass.* Sizeable cracks, usually in parallel layers and usually clean cut.

(10) *Overdeveloped eyes.* Large holes commonly known as blow holes, usually in excess of 2 inches in diameter.

(11) *Overset.* Too many eyes.

(12) *Picks.* Small irregular or ragged openings.

(13) *Pinholes; pinholey.* So-called because the holes are numerous and very small and give the appearance of pinholes.

(14) *Shell.* Nutshell appearance on wall surface of the eyes.

(c) *With respect to finish and appearance*—(1) *Sound rind.* Free of checks or cracks that enter the body of the cheese.

(2) *Wrapper or covering.* Flexible material placed next to the surface of the cheese used as an enclosure or covering of the cheese.

(3) *Fully envelop.* Wrapper or covering properly closed and entirely covering the cheese to prevent it from contamination and desiccation.

(4) *Mold under wrapper or covering.* Mold spots or areas that have formed under the wrapper or on the cheese.

Subpart O—United States Standards for Dry Whey [1]

AUTHORITY: Agricultural Marketing Act of 1946; secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

SOURCE: 45 FR 26946, Apr. 22, 1980; 45 FR 27916, Apr. 25, 1980, unless otherwise noted. Redesignated at 46 FR 63203, Dec. 31, 1981.

DEFINITIONS

§ 58.2601 Whey.

"Whey" is the fluid obtained by separating the coagulum from milk, cream, and/or skim milk in cheesemaking. The acidity of the whey may be adjusted by the addition of safe and suitable pH adjusting ingredients. Salt drippings (moisture removed from cheese curd as a result of salting) shall not be collected for further processing as whey.

§ 58.2602 Dry Whey.

"Dry Whey" is the product resulting from drying fresh whey which has been pasteurized and to which nothing has been added as a preservative. It contains all constituents, except moisture, in the same relative proportions as in the whey.

U.S. GRADE

§ 58.2603 Nomenclature of U.S. grade.

The nomenclature of the U.S. grade is U.S. Extra.

§ 58.2604 Basis for determination of U.S. grade.

The U.S. grade of dry whey is determined on the basis of flavor, physical appearance, bacterial estimate, coliform, milkfat content, and moisture.

§ 58.2605 Requirements for U.S. grade.

(a) *U.S. Extra.* U.S. Extra Grade dry whey conforms to the following requirements:

(1) *Flavor* (applies to the reliquefied form). Shall have a normal whey flavor free from undesirable flavors,

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[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

but may possess the following flavors to a slight degree: Bitter, fermented, storage, and utensil; and the following to a definite degree: feed and weedy.

(2) *Physical appearance.* Has a uniform color, and is free flowing, free from lumps that do not break up under slight pressure, and is practically free from visible dark particles.

(3) *Bacterial estimate.* Not more than 50,000 per gram standard plate count.

(4) *Coliform.* Not more than 10 per gram.

(5) *Milkfat content.* Not more than 1.50 percent.

(6) *Moisture content.* Not more than 5.0 percent.

§ 58.2606 Basis for acidity classification.

Acidity classification is not a U.S. grade requirement. Acidity classification will be made available only upon a U.S. graded product and the results will be shown on the grading certificate. The dry whey will be classified for acidity as follows:

(a) *Dry sweet-type whey.* Dry whey not over 0.16 percent titratable acidity on a reconstituted basis.

(b) *Dry whey ——% titratable acidity.* Dry whey over 0.16 percent, but below 0.35 percent titratable acidity on a reconstituted basis. The blank being filled with the actual acidity.

(c) *Dry acid-type whey.* Dry whey with 0.35 percent or higher titratable acidity on a reconstituted basis.

§ 58.2607 [Reserved]

§ 58.2608 Optional tests.

There are certain optional requirements in addition to those specified in § 58.2605. Tests for these requirements may be run occasionally at the option of the Department and will be run whenever they are requested by an interested party. These optional requirements are as follows:

(a) *Protein content (N x 6.38).* Not less than 11 percent.

(b) *Alkalinity of ash (sweet-type whey only).* Not more than 225 ml. of 0.1 N HC1 per 100 grams.

(c) *Scorched particle content.* Not more than 15.0 mg.

§ 58.2609 U.S. grade not assignable.

(a) Dry whey which fails to meet the requirements of U.S. Extra Grade shall not be assigned a U.S. grade.

(b) Dry whey which fails to meet the requirements of any optional test, when tests have been made, shall not be assigned a U.S. grade.

(c) Dry whey produced in a plant found on inspection to be using unsatisfactory manufacturing practice, equipment, or facilities, or to be operating under unsanitary plant conditions shall not be assigned a U.S. grade.

§ 58.2610 Test methods.

All required tests, and optional tests when specified, shall be performed in accordance with the following methods:

(a) "Methods of Laboratory Analysis," DA instruction series 918-103-2, 918-103-5, 918-109-2, and 918-109-3, Dairy Grading Branch, Poultry and Dairy Quality Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, or the latest revision thereof.

EXPLANATION OF TERMS

§ 58.2611 Explanation of terms.

(a) *With respect to flavor*—(1) *Slight.* An attribute barely identifiable and present only to a small degree.

(2) *Definite.* An attribute readily identifiable and present to a substantial degree.

(3) *Undesirable.* Identifiable flavors in excess of the intensity permitted, or those flavors not otherwise listed.

(4) *Bitter.* Distasteful, similar to taste of quinine.

(5) *Feed.* Feed flavors such as alfalfa, sweet clover, silage, or similar feed.

(6) *Fermented.* Flavors, such as fruity or yeasty, produced through unwanted chemical changes brought about by microorganisms or their enzyme systems.

(7) *Storage.* Lacking in freshness and imparting a "rough" or "harsh" aftertaste.

(8) *Utensil.* A flavor that is suggestive of improper or inadequate washing and sterilization of utensils or factory equipment.

(9) *Weedy.* Aromatic flavor characteristic of the weeds eaten by cows carried through into the dry whey.

(b) *With respect to physical appearance*—(1) *Slight pressure.* Only sufficient pressure to readily disintegrate the lumps.

(2) *Practically free.* Present only upon very critical examination.

(3) *Free flowing.* Capable of being poured continuously without interruption.

(4) *Lumps.* Loss of powdery consistency but not caked into hard chunks.

(5) *Uniform color.* Free from variation in shades or intensity of color.

(6) *Visible dark particles.* The presence of scorched or discolored specks capable of being seen by the eye.

Subpart P—United States Standards for Grades of Butter [1]

SOURCE: 42 FR 5968, Feb. 1, 1977, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981.

DEFINITIONS

§ 58.2621 Butter.

For the purpose of this Subpart P "butter" means the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, and containing not less than 80 percent by weight of milkfat, all tolerance having been allowed for.

§ 58.2622 Cream.

The term "cream" when used in this Subpart P means cream separated from milk produced by healthy cows. The cream shall be pasteurized at a temperature of not less than 165° F. and held continuously in a vat at such temperature for not less than 30 minutes; or pasteurized at a temperature of not less than 185° F. for not less than 15 seconds; or it shall be pasteurized by other approved methods giving equivalent results.

U.S. GRADES

§ 58.2625 Nomenclature of U.S. grades.

The nomenclature of U.S. grades is as follows:

(a) U.S. Grade AA.
(b) U.S. Grade A.
(c) U.S. Grade B.

§ 58.2626 Basis for determination of U.S. grade.

The U.S. grade of butter is determined on the basis of classifying first the flavor characteristics and then the characteristics in body, color, and salt. Flavor is the basic quality factor in grading butter and is determined organoleptically by taste and smell. The flavor characteristic is identified and together with its relative intensity is rated according to the applicable classification. When more than one flavor characteristic is discernible in a sample of butter, the flavor classification of the sample shall be established on the basis of the flavor that carries the lowest rating (see Table I). Body, color, and salt characteristics are then noted and any defects are disrated in accordance with the established classification (see Table II). The final U.S. grade for the sample is then established in accordance with the flavor classification, subject to disratings for body, color, and salt; when the disratings for body, color, and salt exceed the permitted amount for any flavor classification the final U.S. grade shall be lowered accordingly (see Table III and IV).

§ 58.2627 Specifications for U.S. grades of butter.

The specifications for the U.S. grades of butter are as follows:

(a) *U.S. Grade AA.* U.S. Grade AA butter conforms to the following: Possesses a fine and highly pleasing butter flavor. May possess a slight feed and a definite cooked flavor. It is made from sweet cream of low natural acid to which a culture (starter) may or may not have been added. The permitted total disratings in body, color, and salt characteristics are limited to one-half (½). For detailed specifications and classification of flavor characteristics see Table I, and for body, color, and salt characteristics and disratings see Table II.

---

[1] Compliance with these standards does not excuse failure to comply with provisions of the Federal Food, Drug and Cosmetic Act.

(b) *U.S. Grade A.* U.S. Grade A butter conforms to the following: Possesses a pleasing and desirable butter flavor. May possess any of the following flavors to a slight degree: Acid, aged, bitter, coarse, flat, smothered, and storage. May possess feed flavor to a definite degree. The permitted total disratings in body, color, and salt characteristics are limited to one-half (½), except, when the flavor classification is AA, a disrating total of one (1) is permitted. For detailed specifications and classification of flavor characteristics see Table I, and for body, color, and salt characteristics and disratings see Table II.

(c) *U.S. Grade B.* U.S. Grade B butter conforms to the following: Possesses a fairly pleasing butter flavor. May possess any of the following flavors to a slight degree: Malty, musty, neutralizer, scorched, utensil, weed, and whey. May possess any of the following flavors to a definite degree: Acid, aged, bitter, smothered, storage, and old cream; feed flavor to a pronounced degree. The permitted total disratings in body, color, and salt characteristics are limited to one-half (½), except, when the flavor classification is AA, a disrating total of one and one-half (1½) is permitted and when the flavor classification is A, a disrating total on one (1) is permitted. For detailed specifications and classification of flavor characteristics see Table I, and for body, color, and salt characteristics and disratings see Table II.

(d) *General.* Butter of all U.S. grades shall be free of foreign materials and visible mold. Butter possessing a flavor rating of AA and workmanship disratings in excess of one and one-half (1½) shall be given a flavor rating only; butter possessing a flavor rating of A and workmanship disratings in excess of one (1) shall be given a flavor rating only; and butter possessing a flavor rating of B and workmanship disratings in excess of one-half (½) shall be given a flavor rating only.

TABLE I—CLASSIFICATION OF FLAVOR CHARACTERISTICS

Identified flavors [1]	Flavor classification		
	AA	A	B
Feed	S	D	P
Cooked	D		
Acid		S	D
Aged		S	D
Bitter		S	D
Coarse		S	
Flat		S	
Smothered		S	D
Storage		S	D
Malty			S
Musty			S
Neutralizer			S
Scorched			S
Utensil			S
Weed			S
Whey			S
Old Cream			D

S—Slight; D—Definite; P—Pronounced.

[1] When more than one flavor is discernible in a sample of butter, the flavor classification of the sample shall be established on the basis of the flavor that carries the lowest classification.

TABLE II—CHARACTERISTICS AND DISRATINGS IN BODY, COLOR, AND SALT

Characteristics	Disratings		
	S	D	P
Body:			
Crumbly	½	1	
Gummy	½	1	
Leaky	½	1	2
Mealy or grainy	½	1	
Short	½	1	
Weak	½	1	
Sticky	½	1	
Ragged boring	1	2	
Color:			
Wavy	½	1	
Mottled	1	2	
Streaked	1	2	
Color specks	1	2	
Salt:			
Sharp	½	1	
Gritty	1	2	

S—Slight; D—Definite; P—Pronounced.

§ 58.2628 Relation of U.S. grade of butter to the flavor classification as affected by disratings in body, color and salt characteristics.

(a) The flavor classification and total disratings in body, color, and salt characteristics permitted in each grade are as follows:

TABLE III

Flavor classification	Total disratings	U.S. grade
AA	½	AA
AA	1	A
AA	1½	B
A	1	B
B	½	B

(b) Examples of the relation of U.S. grades to flavor classification and total disratings in body, color, and salt characteristics:

TABLE IV

Example No.	Flavor classification	Disratings			Total disratings	Permitted total disratings	Disratings in excess of total permitted	U.S. grade
		Body	Color	Salt				
1	AA	½	0	0	½	½	0	AA
2	AA	½	½	0	1	½	½	A
3	AA	0	1	0	1	½	½	A
4	AA	½	1	0	1½	½	1	B
5	A	½	0	0	½	½	0	A
6	A	0	½	½	1	½	½	B
7	A	0	1	0	1	½	½	B
8	B	½	0	0	½	½	0	B

§ 58.2629 U.S. Grade not assignable.

(a) Butter which fails to meet the requirements for U.S. Grade shall not be given a U.S. grade.

(b) Butter, when tested, which does not comply with the provisions of the Federal Food, Drug, and Cosmetic Act, including minimum milkfat requirements of 80.0 percent, shall not be assigned a U.S. grade.

(c) Butter produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment or facilities, or to be operating under unsanitary plant conditions shall not be assigned a U.S. grade.

(d) When the butter has been produced in a plant which has not been surveyed and approved for inspection or grading service.

§ 58.2635 Explanation of terms.

(a) *With respect to flavor intensity and characteristics*—(1) *Slight.* An attribute which is barely identifiable and present only to a small degree.

(2) *Definite.* An attribute which is readily identifiable and present to a substantial degree.

(3) *Pronounced.* An attribute which is markedly identifiable and present to a large degree.

(4) *Aged.* Characterized by lack of freshness.

(5) *Bitter.* Astringent, similar to taste of quinine and produces a puckery sensation.

(6) *Acid.* Lacks a delicate flavor or aroma and is associated with an acid condition but there is no indication of sourness.

(7) *Cooked.* Smooth, nutty-like character resembling a custard flavor.

(8) *Cooked (coarse).* Lacks a fine, delicate, smooth flavor.

(9) *Feed.* Aromatic flavor characteristic of the feeds eaten by cows.

(10) *Flat.* Lacks natural butter flavor.

(11) *Malty.* A distinctive, harsh flavor suggestive of malt.

(12) *Musty.* Suggestive of the aroma of a damp vegetable cellar.

(13) *Neutralizer.* Suggestive of a bicarbonate of soda flavor or the flavor of similar compounds.

(14) *Old Cream.* Aged cream characterized by lack of freshness and imparts a rough aftertaste on the tongue.

(15) *Scorched.* A more intensified flavor than coarse and imparts a harsh aftertaste suggestive of excessive heating.

(16) *Smothered.* Suggestive of improperly cooled cream.

(17) *Storage.* Characterized by a lack of freshness and more intensified than "aged" flavor.

(18) *Utensil.* A flavor suggestive of unclean cans, utensils and equipment.

(19) *Weed.* Aromatic flavor characteristic of the weeds eaten by cows.

(20) *Whey.* A flavor and aroma characteristic of cheese whey.

(b) *With respect to body*—(1) *Crumbly.* When a "crumbly" body is present the particles lack cohesion. The intensity is described as "slight" when the trier plug tends to break and the butter lacks plasticity; and "definite" when the butter breaks roughly or crumbles.

(2) *Gummy.* Gummy-bodied-butter does not melt readily and is inclined to stick to the roof of the mouth. The intensity is described as "slight" when the butter tends to become chewy and "definite" when it imparts a gum-like impression in the mouth.

(3) *Leaky.* A "leaky" body is present when on visual examination there are beads of moisture on the surface of the trier plug and on the back of the trier or when slight pressure is applied to the butter on the trier plug. The intensity is described as "slight" when the droplets or beads of moisture are barely visible and about the size of a pinhead; "definite" when the moisture drops are somewhat larger or the droplets are more numerous and tend to run together; and "pronounced" when the leaky condition is so evident that drops of water drip from the trier plug.

(4) *Mealy or grainy.* A "mealy" or "grainy" condition imparts a granular consistency when the butter is melted on the tongue. The intensity is described as "slight" when the mealiness or graininess is barely detectable on the tongue and "definite" when the mealiness or graininess is readily detectable.

(5) *Ragged boring.* A "ragged boring" body, in contrast to solid boring, is when a sticky-crumbly condition is present to such a degree that a full trier of butter cannot be drawn. The intensity is described as "slight" when there is a considerable adherence of butter to the back of the trier and "definite" when it is practically impossible to draw a full plug of butter.

(6) *Short.* The texture is short-grained, lacks plasticity and tends toward brittleness. The intensity is described as "slight" when the butter lacks pliability and tends to be brittle; and "definite" when sharp and distinct breaks form as pressure is applied against the plug.

(7) *Sticky.* When a "sticky" condition is present, the butter adheres to the trier as a smear and possesses excessive adhesion. The intensity is described as "slight" when the smear is present only on a portion of the back of the trier and "definite" when the trier becomes smeary throughout its length.

(8) *Weak.* A "weak" body lacks firmness and tends to be spongy. The intensity is described as "slight" when the plug of butter, under slight pressure, tends to depress easily and definitely lacks firmness and compactness.

(c) *With respect to color*—(1) *Mottled.* "Mottles" appear as a dappled condition with spots of lighter and deeper shades of yellow. The intensity is described as "slight" when the small spots of different shades of yellow, irregular in shape, are barely discernible on the plug of butter and "definite" when the mottles are readily discernible on the plug of butter.

(2) *Specks.* "Specks" usually appear in butter as small white or dark yellow particles; they may be of variable size. The intensity is described as "slight" when the particles are few in number and "definite" when they are noticeable in large numbers.

(3) *Streaked.* "Streaked" color appears as light colored portions surrounded by more highly colored portions. The intensity is described as "slight" when only a few are present and "definite" when they are more numerous on the trier plug.

(4) *Wavy.* "Wavy" color in butter is an unevenness in the color that appears as waves of different shades of yellow. The intensity is described as "slight" when the waves are barely discernible and "definite" when they are readily noticeable on the trier plug.

(d) *With respect to salt*—(1) *Sharp.* "Sharp" salt is characterized by taste sensations suggestive of salt. The intensity is described as "slight" when the salt taste predominates in flavor; and "definite" when the salt taste distinctly predominates in flavor.

(2) *Gritty.* A "gritty" salt condition is detected by the sandlike feel of grains of undissolved salt on the tongue or between the teeth when the butter is chewed. The intensity is described as "slight" when only a few grains of undissolved salt are detected and "definite" when the condition is more readily noticeable.

Subpart Q—United States Standards for Grades of Dry Sweetcream Buttermilk[1]

AUTHORITY: Agricultural Marketing Act of 1946, Secs. 203 and 205, 60 Stat. 1087, as amended, and 1090, as amended; 7 U.S.C. 1622 and 1624.

SOURCE: 50 FR 4, Jan. 2, 1985, unless otherwise noted.

DEFINITION

§ 58.2651 Dry sweetcream buttermilk.

"Dry sweetcream buttermilk" (made by the spray process or the atmospheric roller process) is the product resulting from drying liquid buttermilk that was derived from the churning of sweetcream butter and was pasteurized before the drying process at a temperature of 161°F for 15 seconds or its equivalent in bacterial destruction. Dry sweetcream buttermilk shall have a protein content of not less than 30 percent.[2]

U.S. GRADES

§ 58.2652 Nomenclature of U.S. grades.

The nomenclature of U.S. grades of dry sweetcream buttermilk is as follows:

U.S. Extra.
U.S. Standard.

§ 58.2653 Basis for determination of U.S. grades.

(a) The U.S. grades of dry sweetcream buttermilk are determined on the basis of flavor, physical appearance, bacterial estimate on the basis of standard plate count, butterfat content, moisture content, scorched particle content, solubility index, and titratable acidity.

(b) The final U.S. grade shall be established on the basis of the lowest rating of any one of the quality characteristics.

§ 58.2654 Specifications for U.S. grades.

(a) *U.S. Extra grade.* U.S. Extra grade dry sweetcream buttermilk shall conform to the following requirements (See Tables, I, II, and III of this section):

(1) *Flavor* (Applies to the reconstituted product). Shall be sweet and pleasing, and has no unnatural or offensive flavors.

(2) *Physical appearance.* Shall possess a uniform cream to light brown color; free from lumps except those that readily break up with slight pressure, and practically free from visible dark particles.

(3) *Bacterial estimate.* Not more than 50,000 per gram standard plate count.

(4) *Butterfat content.* Not less than 4.5 percent.

(5) *Moisture content.* Not more than 4.0 percent.

(6) *Scorched particle content.* Not more than 15.0 mg. for spray process, and 22.5 mg. for roller process.

(7) *Solubility index.* Not more than 1.2 ml. for spray process, and 15 ml. for roller process.

(8) *Titratable acidity.* Not less than 0.10 percent; not more than 0.18 percent.

(b) *U.S. Standard grade.* U.S. Standard grade dry sweetcream buttermilk shall conform to the following requirements (See Tables I, II, and III of this section):

---

[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

[2] Dry sweetcream buttermilk covered by these standards shall not contain or be derived from nonfat dry milk, milkfat from whey, liquid derived from churning milkfat from whey, or other dairy derived products; or shall not contain any added preservative, neutralizing agent or other chemical.

(1) *Flavor* (Applies to the reconstituted product). Should possess a fairly pleasing flavor, but may possess slight unnatural flavors and has no offensive flavors.

(2) *Physical appearance.* Shall possess a uniform cream to light brown color; free from lumps except those that readily break up with moderate pressure, and reasonably free from visible dark particles.

(3) *Bacterial estimate.* Not more than 200,000 per gram standard plate count.

(4) *Butterfat content.* Not less than 4.5 percent.

(5) *Moisture content.* Not more than 5.0 percent.

(6) *Scorched particle content.* Not more than 22.5 mg. for spray process, and 32.5 mg. for roller process.

(7) *Solubility index.* Not more than 2.0 ml. for spray process, and 15 ml. for roller process.

(8) *Titratable acidity.* Not less than 0.10 percent; not more than 0.20 percent.

TABLE I.—CLASSIFICATION OF FLAVOR

Identification of flavor characteristics	U.S. extra grade	U.S. standard grade
Unnatural	None	Slight.
Offensive	None	None.

TABLE II.—CLASSIFICATION OF PHYSICAL APPEARANCE

Identification of physical appearance characteristics	U.S. extra grade	U.S. standard grade
Lumpy: Visible dark particles.	Slight: Practically free.	Moderate: Reasonably free.

TABLE III.—CLASSIFICATION ACCORDING TO LABORATORY ANALYSIS

Laboratory tests	U.S. extra grade	U.S. standard grade
Bacterial estimate: standard plate count per gram	50,000	200,000
Butterfat content; percent	4.5	4.5
Moisture content; percent	4.0	5.0

TABLE III.—CLASSIFICATION
LABORATORY ANALYSIS-

Laboratory tests	U
Scorched particle content; mg.:	
Spray proc.	
Roller proc.	
Solubility index; ml.:	
Spray proc.	
Roller proc.	
Titratable acidity; percent	

§ 58.2655 U.S. grade not as

Dry sweetcream butter
be assigned a U.S. gra
more of the following re

(a) Fails to meet the
for U.S. Standard grade.

(b) Has a protein co
than 30 percent.

(c) Produced in a plan
spection to be using
manufacturing practice
or facilities, or to be op
unsanitary plant conditi

(d) Produced in a plan
USDA approved.

§ 58.2656 Test methods.

All required tests shal
in accordance with "Me
ratory Analysis", DA I
918-103 (dry milk pr
Dairy Grading and S
Branch, AMS, U.S. Dep
riculture, Washington,
"Official Methods of A
Association of Offic
Chemists", 13th Ed. or

EXPLANATION OF

§ 58.2657 Explantion of te

(a) *With respect to fla*

(1) *Slight.* Detectable
ical examination.

(2) *Offensive.* Those t
ious and cause disp
tasted.

(3) *Unnatural.* Those
mal to the characterist
product.

(b) *With respect to p*
ance:

(1) *Practically free.*
upon very critical exam

(2) *Reasonably free.* Present only upon critical examination.

(3) *Slight pressure.* Only sufficient pressure to disintegrate the lumps readily.

(4) *Moderate pressure.* Only enough pressure to disintegrate the lumps easily.

(5) *Lumpy.* Loss of powdery consistency but not caked into hard chunks.

(6) *Visible dark particles.* The presence of scorched or discolored specks.

Subpart R—United States Scorched Particle Standards for Dry Milks

§ 58.2676 United States scorched particle standards for dry milks.

The standards contained in this subpart consist of four (4) discs, each of which represents one of the following:

7.5 mg. of scorched particles.
15.0 mg. of scorched particles.
22.5 mg. of scorched particles.
32.5 mg. of scorched particles.

§ 58.2677 Preparation of discs.

Each of the four (4) discs was prepared in accordance with the procedure set forth in this section.

(a) Spread five grams of nonfat dry milk solids evenly over a petri dish and heat at 119° C. for four hours to produce scorched particles.

(b) After heating, keep in desiccator until the particles are weighed.

(c) Prepare scorched particle solution by mixing 0.50 gram of the scorched particles (prepared in accordance with paragraph (a) of this section) gently with approximately 20 ml. of a 50 percent filtered sucrose solution. Transfer the mixture to a 200 ml. volumetric flask and dilute to volume using a 50 percent filtered sucrose solution and mix thoroughly.

(d) To provide particles which, in appearance, are similar to highly scorched, or burned, protein particles, prepare at least 1.0 gram of a charcoal mixture by using the following specified percentages of charcoal of the designated meshes:

200 mesh charcoal: 20 percent.
150 mesh charcoal: 50 percent.
100 mesh charcoal: 20 percent.
65 mesh charcoal: 10 percent.

(e) Prepare charcoal solution by placing 1.0 gram of the charcoal mixture (prepared in accordance with paragraph (d) of this section) in a one-liter volumetric flask and dilute to volume, using a 50 percent filtered sucrose solution and mix thoroughly.

(f) Prepare each of the following sample solutions:

(1) *Sample solution 1.* Mix 75 ml. of filtered, reconstituted, spray process nonfat dry milk solids with (i) a quantity of scorched particle solution containing scorched particles aggregating 7.425 mg. and (ii) a quantity of charcoal solution containing charcoal particles aggregating 0.075 mg. The particle content of this sample solution is 7.5 mg.

(2) *Sample solution 2.* Mix 75 ml. of filtered, reconstituted, spray process nonfat dry milk solids with (i) a quantity of scorched particle solution containing scorched particles aggregating 14.85 mg. and (ii) a quantity of charcoal solution containing charcoal particles aggregating 0.15 mg. The particle content of this sample solution is 15.0 mg.

(3) *Sample solution 3.* Mix 75 ml. of filtered, reconstituted, spray process nonfat dry milk solids with (i) a quantity of scorched particle solution containing scorched particles aggregating 22.2 mg. and (ii) a quantity of charcoal solution containing charcoal particles aggregating 0.30 mg. The particle content of this sample solution is 22.5 mg.

(4) *Sample solution 4.* Mix 75 ml. of filtered, reconstituted, spray process nonfat dry milk solids with (i) a quantity of scorched particle solution containing scorched particles aggregating 31.9 mg. and (ii) a quantity of charcoal solution containing charcoal particles aggregating 0.60 mg. The particle content of this sample solution is 32.5 mg.

(g) Stir each sample solution immediately prior to filtering and filter through a standard lintine disc (1¼" diameter) using a filtering surface of 1 ⅛" diameter. Rinse the container of each sample solution with filtered, reconstituted, spray process nonfat dry milk solids and filter the rinse through the applicable disc.

(h) Dry the discs at room temperature.

§ 58.2678 General.

To facilitate the use and availability of these scorched particle standards, a composite photograph of the four (4) discs is made a part hereof;[1] and a copy of the photograph may be obtained, upon request, from the Poultry and Airy Quality Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

[23 FR 9410, Dec. 5, 1958. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

Subpart S—United States Standards for Grades of Dry Whole Milk[1]

AUTHORITY: Agricultural Marketing Act of 1946, secs. 203, 205, 60 Stat. 1087, as amended, 1900, as amended; 7 U.S.C. 1622, 1624.

SOURCE: 48 FR 10608, Mar. 14, 1983, unless otherwise noted.

DEFINITIONS

§ 58.2701 Dry whole milk.

"Dry whole milk" made by the Spray process or Roller process is the product obtained by removal of water only from pasteurized milk which may have been homogenized. Alternatively, dry whole milk may be obtained by blending fluid, condensed, or dried nonfat milk with liquid or dried cream or with fluid, condensed, or dried milk, as appropriate, provided the resulting dry whole milk is equivalent in composition to that obtained by drying. It contains the lactose, milk proteins, milkfat, and milk minerals in the same relative proportions as the milk from which it was made. It may be optionally fortified with either Vitamins A or D or both.

§ 58.2702 Milk.

The term "Milk", when used in this part, means milk produced by healthy cows and pasteurized at a temperature of 161° F. for 15 seconds or its equiva-
lent in bacterial des
during the manufac
milk.

U.S. Gr

§ 58.2703 Nomenclatur

The nomenclature
as follows:

(a) U.S. Extra grad

(b) U.S. Standard g

**§ 58.2704 Basis for de
grades.**

The U.S. grades o
are determined on th
physical appearance
mate, coliform estim
scopic count, milkfa
ture content, scorcl
tent, and solubility in

§ 58.2705 Specification

(a) *U.S. Extra gr*
grade dry whole milk
the following require
I, II, and III):

(1) *Flavor.* (applie
tuted product). Shal
ing and desirable. I
slight feed flavor;
cooked flavor. It shal
desirable flavors.

(2) *Physical appe*
white or light cream
lumps that do not
slight pressure, and
from visible dark par
stituted product sha
graininess.

(3) *Bacterial esti*
than 50,000 per gram
count.

(4) *Coliform estin*
than 10 per gram.

(5) *Milkfat conten*
26.0%, but less than 4

(6) *Moisture conten*
4.5% (as determine
moisture on a mill
basis).

(7) *Scorched parti*
more than 15.0 mg.
and 22.5 mg. for rolle

(8) *Solubility index*
1.0 ml. for spray pro
for roller process.

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[1] Filed with the Federal Register Office as part of the original document (16 FR 923).

[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

(b) *U.S. Standard grade.* U.S. Standard grade dry whole milk shall conform to the following requirements (See tables I, II, and III):

(1) *Flavor.* (applies to the reconstituted product) Shall be sweet and should have a pleasing flavor. It may possess the following flavors to a slight degree: bitter, oxidized, scorched, stale, and storage; and to a definite degree: feed and cooked. It shall be free from undesirable flavors.

(2) *Physical appearance.* Should be white or light cream color, but may possess a slight unnatural color; and shall be free from lumps that do not break up under moderate pressure; and reasonably free from visible dark particles. The reconstituted product shall be reasonably free from graininess.

(3) *Bacterial estimate.* Not more than 100,000 per gram standard plate count.

(4) *Coliform estimate.* Not more than 10 per gram.

(5) *Milkfat content.* Not less than 26.0%, but less than 40.0%.

(6) *Moisture content.* Not more than 5.0% (as determined by weight of moisture on a milk solids not fat basis).

(7) *Scorched particle content.* Not more than 22.5 mg. for spray process and 32.5 mg. for roller process.

(8) *Solubility index.* Not more than 1.5 ml. spray process, and 15.0 ml. for roller process.

§ 58.2706 Basis for oxygen content determination.

Oxygen content (if gas packed) is not a U.S. grade requirement. Percentage of oxygen content will be made available only on a U.S. graded product and the results will be shown on the grading certificate as follows:

Oxygen Content

Not more than 2% Oxygen or,
Not more than 3% Oxygen or,
Oxygen content —%

TABLE I—CLASSIFICATION OF FLAVOR

Identification of flavor characteristics	U.S. extra grade	U.S. standard grade
Cooked	Definite	Definite.
Feed	Slight	Definite.
Bitter		Slight.
Oxidized		Slight.
Scorched		Slight.
Stale		Slight.
Storage		Slight.

TABLE II—CLASSIFICATION OF PHYSICAL APPEARANCE

Identification of physical appearance characteristics	U.S. extra grade	U.S. standard grade
Dry product:		
Unnatural color	None	Slight.
Lumps	Slight pressure	Moderate pressure.
Visible dark particles.	Practically free	Reasonably free.
Reconstituted product:		
Grainy	Free	Reasonably free.

TABLE III—CLASSIFICATION ACCORDING TO LABORATORY ANALYSIS

Laboratory tests	U.S. extra grade	U.S. standard grade
Bacterial estimate, SPC/gram.	50,000	100,000.
Coliform estimate/gram.	10	10.
Milkfat content, percent.	Not less than 26.0, But less than 40.0.	Not less than 26.0, but less than 40.0.
Moisture content, percent [1].	4.5	5.0
Scorched particle content, mg:		
Spray proc.	15.0	22.5.
Roller proc.	22.5	32.5.
Solubility index, ml:		
Spray proc.	1.0	1.5.
Roller proc.	15.0	15.0.

[1] Milk solids not fat basis.

§ 58.2707 Optional tests.

There are certain optional test requirements in addition to those specified in section 58.2705. Testing for these requirements may be done occasionally at the option of the Department and will be done whenever they are requested by an interested party.

These optional requirements are as follows:

(a) *Copper content.* Not more than 1.5 p.p.m.

(b) *Iron content.* Not more than 10 p.p.m.

(c) *Titratable acidity.* Not more than 0.15 percent.

(d) *Vitamin addition.* When either or both Vitamin A or D is added, they shall be present in such quantity that, when prepared according to label directions, each quart of the reconstituted product shall contain:

Vitamin A. Not less than 2,000 I.U.
Vitamin D. 400 I.U.

[48 FR 10608, Mar. 14, 1983; 48 FR 12690, Mar. 28, 1983]

§ 58.2708 U.S. grades not assignable.

Dry whole milk shall not be assigned a U.S. grade for one or more of the following reasons:

(a) Fails to meet the requirements for U.S. Standard grade.

(b) Has a direct microscopic clump count exceeding 100 million per gram.

(c) Fails to meet the requirements for any optional tests as specified in section 58.2707, when such tests have been performed.

(d) Produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment, or facilities, or to be operating under unsanitary plant conditions.

(e) Produced in a plant which is not USDA approved.

§ 58.2709 Test methods.

All required tests, and optional tests when specified, shall be performed in accordance with "Methods of Laboratory Analysis", DA Instruction No. 918-103 (dry milk products series), Dairy Grading Branch, AMS, U.S. Department of Agriculture, Washington, DC 20250; and "Official Methods of Analysis of the Association of Official Analytical Chemists", 13th Ed. or latest revision.

EXPLANATION OF TERMS

§ 58.2710 Explanation of terms.

(a) *With respect to flavor:*

(1) *Slight.* An attribute which is barely identifiable and present only to a small degree.

(2) *Definite.* An att
readily indentifiable a
substantial degree.

(3) *Undesirable.* Th
excess of the intensi
those not otherwise lis

(4) *Bitter.* Similar to
and produces a pucker

(5) *Cooked.* Simila
flavor and imparts a
taste.

(6) *Feed.* Feed flavor
fa, sweet-clover, silage,
in milk carried throu
whole milk.

(7) *Oxidized.* A fla
cardboard and someti
as "cappy" or "tallowy

(8) *Scorched.* A m
flavor than "cooked"
burnt aftertaste.

(9) *Stale, Storage.* L
ness and imparting
"harsh" aftertaste.

(10) *Sweet.* The lac
acidity.

(b) *With respect to*
ance:

(1) *Practically free.*
fiable upon examinat
to a very small degree.

(2) *Reasonably free.*
able upon examination
a small degree.

(3) *Slight pressure.*
with only light touch.

(4) *Moderate press*
cient pressure to
lumps readily.

(5) *Grainy.* Minute
dissolved powder app
film on the surface of
bler.

(6) *Unnatural color*
more intense than lig
is brownish, dull or gr

(7) *Lumps.* Loss of
ency but not caked in

(8) *Visible dark par*
ence of scorched or
readily visible to the e

Subpart T—United
Standards for Milk
ucts

SOURCE: 42 FR 41846, A
otherwise noted. Redes
63203, Dec. 31, 1981.

§ 58.2726 United States sediment standards for milk and milk products.

(a) The standards contained in this section consist of ten (10) sediment discs, prepared as hereinafter indicated, each of which represents one of the following:

0 mg. of sediment.
0.025 mg. of sediment.
0.050 mg. of sediment.
0.075 mg. of sediment.
0.10 mg. of sediment.
0.20 mg. of sediment.
0.30 mg. of sediment.
0.50 mg. of sediment.
1.00 mg. of sediment.
2.50 mg. of sediment.

(b) Each sediment disc was prepared in accordance with the procedure set forth in paragraph 9.04 of the publication "Standard Methods for the Examination of Dairy Products," Ninth Edition, 1948, published by the American Public Health Association, 1790 Broadway, New York, New York. To facilitate the use and availability of these standards, a composite photograph of the ten (10) sediment discs is made a part hereof;[1] and a copy of the photograph may be obtained, upon request, from the Poultry and Dairy Quality Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(60 Stat. 1087, 7 U.S.C. 1621 et seq.; 84 Stat. 1620, 21 U.S.C. 1031 et seq.)

[42 FR 41846, Aug. 19, 1977, as amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 58.2728 United States sediment standards for milk and milk products: six 1⅛" diameter filtering area (coarse sediment).

(a) The standards contained in this section consist of six (6) sediment discs prepared as hereinafter indicated, each of which is numbered consecutively 0 to 5 representing one of the following amounts of sediment on a 1 ⅛" diameter filtering area.

0—0.0 mg.
1—0.5 mg.
2—1.5 mgs.
3—2.5 mgs.
4—3.0 mgs.
5—6.0 mgs.

(b) Each sediment disc was prepared from "coarse" sediment in accordance with the procedure set forth in paragraph 15.06 of "Standard Methods for the Examination of Dairy Products," Eleventh Edition 1960, published by the American Public Health Association, 1790 Broadway, New York, New York. To facilitate the use and availability of these standards, a composite photograph of the six (6) sediment discs is attached hereto and made a part hereof.[1]

§ 58.2729 United States sediment standards for milk and milk products: three 1⅛" diameter filtering area (coarse sediment).

The standards contained in this section are those most commonly used for the examination of raw milk by the "off-the-bottom method," and are the same three (3) sediment discs numbered as 1, 2 and 3 showing 0.5 mg., 1.5 mgs., and 2.5 mgs. of sediment, respectively, as designated in § 58.2728. To facilitate the use and availability of these standards, a composite photograph of these three (3) sediment discs is attached hereto and made a part hereof.[1]

§ 58.2730 United States sediment standards for milk and milk products: six 0.40" diameter filtering area (fine sediment).

(a) The standards contained in this section consist of six (6) sediment discs prepared as hereinafter indicated, each of which is numbered 0 to 5 representing one of the following amounts of sediment on a 0.40 inch diameter filtering area and is equivalent to the respective amounts of sediment on the 1⅛ inch diameter filtering area as described in § 58.2728:

0—0.0 mg. (0.0 mg. equivalent)
1—0.0625 mg. (0.5 mg. equivalent)
2—0.1875 mg. (1.5 mgs. equivalent)
3—0.3125 mg. (2.5 mgs. equivalent)
4—0.3750 mg. (3.0 mgs. equivalent)
5—0.7500 mg. (6.0 mgs. equivalent)

(b) Each sediment disc was prepared from "fine" sediment in accordance with the procedure set forth in paragraph 15.07 of "Standard Methods for the Examination of Dairy Products,"

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[1] Filed as part of the original document.

Eleventh Edition 1960. To facilitate the use and availability of these standards, a composite photograph of the six (6) sediment discs is attached hereto and made a part hereof.[1]

§ 58.2731 United States sediment standards for milk and milk products: three 0.40" diameter filtering area (fine sediment).

The standards contained in this section are those most commonly used for the examination of raw milk by the "stirred sample method" and are the same three (3) sediment discs numbered as 1, 2 and 3 showing 0.0625 mg., 0.1875 mg. and 0.3125 mg. of sediment, respectively, as designated in § 58.2730. To facilitate the use and availability of these standards, a composite photograph of these three (3) sediment discs is attached hereto and made a part hereof.[1]

§ 58.2732 United States sediment standards for milk and milk products: for 0.10", 0.14", and 0.20" diameter filtering areas (fine sediment).

(a) The standards contained in this section consist of three series of four (4) sediment discs prepared as hereinafter indicated, each of which is numbered 0 to 3 representing one of the following amounts of sediment on a 0.10 inch, 0.14 inch, and 0.20 inch filtering area and is equivalent to the respective amounts of sediment on the 1⅛ inch diameter filtering area as described in § 58.2728:

0.10 inch diameter filtering area.
- 0-0.0 mg. (0.0 mg. equivalent).
- 1-0.0039 mg. (0.50 mg. equivalent).
- 2-0.0118 mg. (1.50mgs. equivalent).
- 3-0.0196 mg. (2.50 mgs. equivalent).

0.14 inch diameter filtering area.
- 0-0.0 mg. (0.0 mg. equivalent).
- 1-0.0078 mg. (0.50 mg. equivalent).
- 2-0.0235 mg. (1.50 mgs. equivalent).
- 3-0.0391 (2.50 mgs. equivalent).

0.20 inch diameter filtering area.
- 0-0.0 mg. (0.0 mg. equivalent).
- 1-0.0156 mg. (0.50 equivalent).
- 2-0.0469 mg. (1.50 mgs. equivalent).
- 3-0.0781 mg. (2.50 mgs. equivalent).

(b) Each sediment disc was prepared from "fine" sediment in accordance with the procedure set forth in paragraph 15.07 of "Standard Meth
the Examination of Dairy Pr
Eleventh Edition, 1960 and pa
17.4, thirteenth edition, 1972. T
tate the use and availability
standards, a composite visual
the three series of four (4) s
discs is attached hereto and
part hereof.[1]

Subpart U—United States St
for Instant Nonfat Dry Milk[1]

Source: 49 FR 10081, Mar. 19, 198
otherwise noted.

Definitions

§ 58.2750 Instant nonfat dry milk.

(a) Instant nonfat dry milk i
dry milk which has been prod
such a manner as to substant
prove its dispersing and recons
characteristics over that prod
the conventional processes.

(b)(1) "Nonfat dry milk" is t
uct resulting from the remov
and water from milk and cont
lactose, milk proteins and mil
als in the same relative propo
in the fresh milk from which
contains not over 5 percent b
of moisture. The fat conten
over 1½ percent by weight, un
erwise indicated.

(2) The term "milk" when
this subpart means fresh, sw
produced by healthy cows, t
been pasteurized before or du
manufacture of the instant no
milk.[2]

U.S. Grade

§ 58.2751 Nomenclature of the U.

The nomenclature of the U.
is U.S. Extra.

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[1] Filed as part of the original document.

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[1] Compliance with these stand
not excuse failure to comply with
sion of the Federal Food, Drug, an
ic Act.

[2] Instant nonfat dry milk covere
standards shall not contain b
whey, other dairy derived produc
added preservative, neutralizing
other chemical.

§ 58.2752 Basis for determination of the U.S. grade.

The U.S. grade of instant nonfat dry milk is determined on the basis of flavor, physical appearance, bacterial estimate on the basis of standard plate count, coliforn count, milkfat content, moisture content, scorched particle content, solubility index, titratable acidity and dispersibility.

§ 58.2753 Specifications for U.S. grade.

(a) U.S. Extra grade shall conform to the following requirements (See Tables I, II, and III):

(1) *Flavor* (applies to reconstituted form). Shall be sweet, pleasing and desirable but may possess the following flavors to a slight degree: chalky, cooked, feed, flat.

(2) *Physical appearance.* Shall possess a uniform white to light cream natural color; shall be reasonably free-flowing and free from lumps except those that readily break up with very slight pressure.

(3) *Bacterial estimate.* Not more than 30,000 per gram standard plant count.

(4) *Coliform count.* Not more than 10 per gram.

(5) *Milkfat content.* Not more than 1.25 percent.

TABLE I—CLASSIFICATION OF FLAVOR

Identification of flavor characteristics	U.S. extra grade
Chalky	Slight.
Cooked	Slight
Feed	Slight.
Flat	Slight.

TABLE II—CLASSIFICATION OF PHYSICAL APPEARANCE

Identification of physical appearance characteristics	U.S. extra grade
Color	White to light cream.
Lumps	Very slight pressure.
Free flowing	Reasonably.

TABLE III—CLASSIFICATION ACCORDING TO LABORATORY ANALYSIS

Laboratory tests	U.S. extra grade
Bacterial estimate, standard plate count per gram	30,000
Coliform count, per gram	10
Milkfat content; percent	1.25
Moisture content; percent	4.5
Scorched particle content; mg	15.0
Solubility index; ml	1.0
Titratable acidity; percent	0.15
Dispersibility; percent	85.0

(6) *Moisture content.* Not more than 4.5 percent.

(7) *Scorched particle content.* Not more than 15.0 mg.

(8) Solubility index. Not more than 1.0 ml.

(9) *Titratable acidity.* Not more than 0.15 percent.

(10) *Dispersibility.* Not less than 85.0 percent.

§ 58.2754 U.S. grade not assignable.

Instant nonfat dry milk shall not be assigned the U.S grade for one or more of the following reasons:

(a) Fails to meet the requirements for U.S. Extra grade.

(b) Has direct microscopic clump count exceeding 75 millon per gram.

(c) The phosphatase test. When run at the option of the Department or when requested by the buyer or seller, shows more than 4 micrograms of phenol per milliliter of reconstituted instant nonfat dry milk.

(d) Produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment, or facilities.

(e) Produced in a plant which is not USDA approved.

§ 58.2756 Test methods.

All required tests, and optional tests when specified, shall be performed in accordance with "Methods of Laboratory Analysis", DA Instruction No. 918-103 (dry milk product series), Dairy Grading and Standardization Branch, AMS, U.S. Department of Agriculture, Washington, D.C. 20250; and "Official Methods of Analysis of the Association of Official Analytical Chemists", 13th Ed. or latest revision.

(1) *Dispersibility.* Dispersibility shall be determined by the modified Moats-Dabbah Method.

(2) *Phosphatase activity.* Residual phosphatase shall be determined using Method II, "Official Methods of Analysis of the Association of Official Analytical Chemists", 13th Ed. or latest revision.

§ 58.2759 Explanation of terms.

(a) *With respect to flavor.*

(1) *Slight.* Detectable only upon critical examination.

(2) *Chalky.* A tactual type of flavor lacking in characteristic milk flavor.

(3) *Cooked.* Similar to a custard flavor and imparts a smooth aftertaste.

(4) *Feed.* Feed flavors (such as alfalfa, sweet-clover, silage, or similar feed) in milk carried through into the instant nonfat dry milk.

(5) *Flat.* Lacking characteristic flavor.

(b) *With respect to physical appearance.*

(1) *Reasonably free-flowing.* Pours in a fairly constant, uniform stream from the open end of a tilted container or scoop.

(2) *Very slight pressure.* Lumps fall apart with only light touch.

(3) *Lumps.* Loss of powdery consistency but not caked into hard chunks.

(4) *Natural color.* A color that is white or light cream.

Subpart V—United States Standards for Grades of Edible Dry Casein (Acid)

SOURCE: 33 FR 10385, July 20, 1968, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981.

§ 58.2800 Definitions.

(a) *Edible dry casein (acid).* (1) For the purposes of these standards edible dry casein (acid) is the pulverized or unpulverized product resulting from washing, drying or otherwise processing the coagulum resulting from acid precipitation of skim milk which has been pasteurized before or during the process of manufacture in a manner approved by the Administrator.

(2) The product shall have been produced in a plant under conditions suitable for the manufacture of human food and packaged in a container which will prevent contamination, deterioration, and/or development of a public health hazard under normal conditions of storage and transportation.

(b) *Administrator.* The Administrator of the Agricultural Marketing Service or any other officer or employee of the Agricultural Marketing Service of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated the authority to act in his stead.

U.S. GRADES

§ 58.2801 Nomenclature of U.S. grades.

The nomenclature of U.S. grades is as follows:

(a) U.S. Extra.

(b) U.S. Standard.

§ 58.2802 Basis for determination of U.S. grades.

(a) The U.S. Grades of edible dry casein (acid)—are determined on the basis of:

(1) Flavor and odor, physical appearance, bacterial estimate on the basis of standard plate count and coliform count, protein content, moisture content, milkfat content, extraneous materials, and free acid.

(2) Additional optional tests for Salmonella or Staphylococcus, metals, yeast and mold as listed in § 58.2805 that have been made at the request of the applicant for the service or at the option of the Department.

(b) The final U.S. Grade shall be established on the basis of the lowest ratings of any one of the applicable quality characteristics present in representative samples of the lot.

§ 58.2803 Requirements for U.S. Extra grade.

U.S. Extra Grade edible dry casein (acid) shall conform to the following requirements:

(a) *Flavor and odor.* Bland natural flavor and odor and free from offensive flavors and odors such as sour or cheesy.

(b) *Physical appearance.* Is white to cream colored; if pulverized, free from lumps that do not break up under slight pressure.

(c) *Bacterial estimates.* Standard plate count not more than 30,000 per gram. Coliform count negative per 0.1 gram.

(d) *Protein content.* Not less than 95 percent, dry basis (Nitrogen x 6.38).

(e) *Moisture content.* Not more than 10 percent.

(f) *Milkfat content.* Not more than 1.5 percent.

(g) *Extraneous materials.* Scorched particles not more than 15 mg. and free from foreign materials in 25 grams.

(h) *Free acid.* Titrated to not more than 0.20 ml. of 0.1 N NaOH per gram.

§ 58.2804 Requirements for U.S. Standard grade.

U.S. Standard Grade edible dry casein (acid) shall conform to the following requirements:

(a) *Flavor and odor.* Not more than slight unnatural flavors or odors and free from offensive flavors and odors such as sour or cheesy.

(b) *Physical appearance.* Is white to cream colored; if pulverized free from lumps that do not break up under moderate pressure.

(c) *Bacterial estimates.* Standard plate count not more than 100,000 per gram. Coliform count not more than 2 per 0.1 gram.

(d) *Protein content.* Not less than 90 percent, dry basis (Nitrogen x 6.38).

(e) *Moisture content.* Not more than 12 percent.

(f) *Milkfat content.* Not more than 2 percent.

(g) *Extraneous materials.* Scorched particles not more than 22.5 mg. and free from foreign materials in 25 grams.

(h) *Free acid.* Titrated to not more than 0.27 ml. of 0.1 N NaOH per gram.

§ 58.2805 Optional tests.

There are certain tests in addition to those specified in §§ 58.2803 and 58.2804 which may be run occasionally at the option of the Department and will be run whenever they are requested by the buyer or seller. Certain of these tests, such as ash, metals, and lactose should be run on first lots received and periodically thereafter. Also, specific uses of the product may necessitate additional tests. These optional tests are listed below together with appropriate recommended criteria.

(a) *Most frequently used particle size.* 30, 60, or 80 mesh.

(1) 30 mesh:

100 percent—must pass 30 ASTM screen.
10 percent—may pass 60 ASTM screen.

(2) 60 mesh:

99 percent—must pass 50 ASTM screen.
10 percent—may pass 80 ASTM screen.

(3) 80 mesh:

100 percent—must pass 60 ASTM screen.
85 percent—may pass 80 ASTM screen.

(4) Other mesh sizes as specified.

(b) *Ash (phosphorus fixed).* Not more than 2.2 percent.

(c) *Percent by weight of metals.* (1) Copper, maximum, 5 p.p.m.

(2) Lead, maximum, 5 p.p.m.

(3) Iron, maximum, 20 p.p.m.

(d) *Yeast and mold.* Not more than 5 per 0.1 gram.

(e) *Thermophiles.* Not more than 5,000 per gram.

(f) *Reducing sugars (as lactose).* Not more than 1 percent.

(g) *Staphylococcus (coagulase positive).* Negative.

(h) *Salmonella.* Negative in 100 gram sample.

§ 58.2806 U.S. grade not assignable.

Edible dry casein (acid) which fails to meet the requirements of U.S. Standard Grade; or of Salmonella or Staphylococcus tests when such tests have been made; or product manufactured, packaged or transported under conditions unsuitable for human food or otherwise found to be unwholesome shall not be assigned a U.S. Grade.

§ 58.2807 Test methods.

(a) Testing methods contained in "Methods for the Analysis of Edible Dry Casein (acid)," Dairy Division Inspection and Grading Branch Laboratory, Agricultural Marketing Service, U.S. Department of Agriculture, or latest revision thereof, shall be used.

§ 58.2808 Sampling methods.

(a) An inspection lot shall be a consignment of units of the same size, type, and style which have been manufactured or processed under essentially the same conditions and not exceeding 80,000 pounds net weight.

(b) Unit containers for sampling shall be selected at random from the inspection lot at the following rate:

Number of containers in inspection lot=N	*Minimum number of containers to be selected*
1 to 4	Each container.
5 to 40	4+N−10[1]÷10.
41 or more	6+one for each 4,000 pounds or fraction thereof in the lot.

[1] Raise fractions of ½ or more to next whole number; disregard negative fractions or fractions less than ½.

(c) A representative portion of the edible dry casein shall be taken from the sample unit by means of a sampling tube and placed in properly identified sample bag. When five or more containers are to be sampled, representative portions from not more than five containers may be commingled on a proportionate basis. Each sample bag, whether from a single container or a composite, should contain at least 500 grams.

(d) Preparation of the sample for analysis. All samples representing an inspection lot shall be composited just prior to analysis to form a sufficient sample for analysis. Results of the analysis of the composited sample will be reported for the inspection lot.

Subpart W—United States Department of Agriculture Standard for Ice Cream

SOURCE: 42 FR 56717, Oct. 28, 1977, unless otherwise noted. Redesignated at 46 FR 63203, Dec. 31, 1981.

§ 58.2825 United States Standard for Ice Cream.

(a) Ice cream shall contain at least 1.6 pounds of total solids to the gallon, weigh not less than 4.5 pounds to the gallon, and contain not less than 20 percent total milk solids, constitued of not less than 10 percent milkfat. In no case shall the content of milk solids not fat be less than 6 percent. Whey
shall not, by weight, be more t
percent of the milk solids not fa

(b) When one or more of th
optional ingredients, as appro
the Food and Drug Adminis
are used, the weights of milk
total milk solids (excusive of s
and solids in any malted mil
are not less than 10 percent
percent, respectively, of the re
obtained by subtracting the we
such optional ingredients, fr
weight of the finished ice cre
in no case is the weight of mil
total milk solids less than 8
and 16 percent, respectively,
weight of the finished ice cr
calculating the reduction of n
and total milk solids from the
bulky optional ingredients, ch
and cocoa solids used shall be
ered the bulky ingredients. In
make allowance for additiona
ening ingredients needed whe
ingredients are used, the we
chocolate or cocoa solids may
tiplied by 2.5; the weight of
nuts used may be multiplied
and the weight of partially or
dried fruits or fruit juices may
tiplied by appropriate fac
obtain the original weights
drying and this weight multip
1.4 The finished ice cream
not less than 1.6 pounds to th
except that when the optional
ent microcrystalline cellulose
the finished ice cream cont
less than 1.6 pounds of total
the gallon and weighs not less
pounds to the gallon exclusive,
cases, of the weight of the mi
talline cellulose.

(c) Optional characterizing
ents, optional sweetening ing
stabilizers, and emulsifiers as a
by the Food and Drug Admini
may be used.

§ 58.2826 General identification.

Consumer packaged produ
comply with the applicable
regulations of the Food and D
ministration.

§ 58.2827 Official identification.

(a) The official symbol to be
identify product meeting th

standard for ice cream shall be as follows:

MEETS USDA

INGREDIENT STANDARD

FOR ICE CREAM

(b) Ice cream manufacturing plants using this symbol shall be USDA approved as set forth in Subpart B of this regulation, and the ice cream bearing the symbol shall be manufactured under continuous resident or continuous nonresident USDA inspection service in accordance with Subpart A of this regulation. The dairy ingredients used in such ice cream shall come from USDA approved plants.

PART 59—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

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AUTHORITY: Secs. 2-28 of the Egg Products Inspection Act (84 Stat. 1620-1635; 21 U.S.C. 1031-1056).

SOURCE: 36 FR 9814, May 28, 1971, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981.

EDITORIAL NOTE: Nomenclature changes to Part 59 appear at 37 FR 8059, Apr. 25, 1972; 42 FR 32514, June 27, 1977; 46 FR 63203, Dec. 31, 1981, and at 47 FR 32513, July 28, 1982.

DEFINITIONS

§ 59.1 Meaning of words.

Under these regulations, words in the singular shall be deemed to mean the plural and vice versa, as the case may demand.

§ 59.5 Terms defined.

For the purpose of these regulations, unless the context otherwise requires, the following terms shall be construed, respectively, as follows:

"Acceptable" means suitable for the purpose intended and acceptable to the Administrator.

"Act" means the applicable provisions of the Egg Products Inspection Act (Pub. L. 91-597, 84 Stat. 1620 et seq.).

"Administrator" means the Administrator of the Agricultural Marketing Service of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated the authority to act in his stead.

"Adulterated" means any egg or egg product under one or more of the following circumstances:

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(b)(1) If it bears or contains any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may in the judgment of the Secretary, make such article unfit for human food;

(2) If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;

(3) If it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

(4) If it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act: *Provided*, That an article which is not otherwise deemed adulterated under para-

graph (a) (2), (3), or (4) of this definition shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on such article, is prohibited by regulations of the Secretary in official plants;

(c) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human food;

(d) If it has been prepared, packaged, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(e) If it is an egg which has been subjected to incubation or the product of any egg which has been subjected to incubation;

(f) If its container is composed, in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health;

(g) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act; or

(h) If any valuable constituent has been, in whole or in part, omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

"Applicant" means any person who requests any inspection service as authorized under the Act or the regulations of this part.

"Capable of use as human food" means any egg or egg product, unless it is denatured, or otherwise identified, as required by these regulations to deter its use as human food.

"Chief of the Grading Branch" means Chief of the Poultry Grading Branch, Poultry Division, Agricultural Marketing Service.

"Class" means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind, type, or method of processing.

"Commerce" means interstate, foreign, or intrastate commerce.

"Condition" means any condition (including, but not being limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food) of any product which affects its merchantability; or any condition, including but not being limited to, the processing, handling, or packaging which affects such product.

"Container" or "Package" includes any box, can, tin, plastic, or other receptacle, wrapper, or cover.

(a) "Immediate container" means any consumer package, or other container in which egg products, not consumer packaged, are packed.

(b) "Shipping container" means any container used in packaging a product packed in an immediate container.

"Department" means the U.S. Department of Agriculture.

"Egg" means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea. Some of the terms applicable to shell eggs are as follows:

(a) "Check" means an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(b) "Clean and sound shell egg" means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(c) "Dirty egg" or "Dirties" means an egg(s) that has a shell that is unbroken and has adhering dirt, foreign material, or prominent stains.

(d) "Incubator reject" means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(e) "Inedible" means eggs of the following descriptions: Black rots, yellow rots, white rots, mixed rots, sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(f) "Leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell.

(g) "Loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

(h) "Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss.

"Egg handler" means any person who engages in any business in commerce which involves buying or selling any eggs (as a poultry producer or otherwise), or processing any egg products, or otherwise using any eggs in the preparation of human food.

"Egg product" means any dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Secretary, considered by consumers as products of the egg food industry, and which may be exempted by the Secretary under such conditions as he may prescribe to assure that the egg ingredients are not adulterated and such products are not represented as egg products. For the purposes of this part, the following products, among others, are exempted as not being egg products: Freeze-dried products, imitation egg products, egg substitutes, dietary foods, dried no-bake custard mixes, egg nog mixes, acidic dressings, noodles, milk and egg dip, cake mixes, French toast, and sandwiches containing eggs or egg products, provided, such products are prepared from inspected egg products or eggs containing no more restricted eggs than are allowed in the official standards for U.S. Consumer Grade B shell eggs. Balut and other similar ethnic delicacies are also exempted from inspection under this part.

"Eggs of current production" means shell eggs which have moved through the usual marketing channels since the time they were laid and are not in excess of 60 days old.

"Fair Packaging and Labeling Act" means the Act so entitled, approved November 3, 1966 (80 Stat. 1296), and Acts amendatory thereof or supplementary thereto.

"Federal Food, Drug, and Cosmetic Act" means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), and Acts amendatory thereof or supplementary thereto.

"Inspection" means the application of such inspection methods and techniques as are deemed necessary by the responsible Secretary to carry out the provisions of the Egg Products Inspection Act and the regulations under this part.

"Inspection service" means the official service within the Department having the responsibility for carrying out the provisions of the Egg Products Inspection Act. Inspection service also means the activities performed, including official reporting by such official service.

"Inspector/Grader" means:

(a) Any employee or official of the United States Government authorized to inspect eggs or egg products under the authority of this part; or

(b) Any employee or official of the government of any State or local jurisdiction authorized by the Secretary to inspect eggs or egg products under the authority of this part, under an agreement entered into between the Secretary and the appropriate State or other agency.

"Interested party" means any person financially interested in a transaction involving any inspection or appeal inspection of any product, or the decision of an inspector.

"Label" means a display of any printed, graphic, or other method of identification upon the shipping container, if any, or upon the immediate container, including but not limited to, an individual consumer package of eggs and egg products, or accompanying such product.

"Misbranded" means any egg products which are not labeled and packaged in accordance with the requirements prescribed by regulations of the Administrator under this part.

"National Supervisor" means:

(a) The officer in charge of the inspection service; and

(b) Such other employee of the Service as may be designated by him.

"Official certificate" means any certificate prescribed by regulations of the Administrator for issuance by an inspector or other person performing official functions under this part.

"Official device" means any device prescribed or authorized by the Secretary for use in applying any official mark.

"Official identification" means the official inspection mark or any other symbol prescribed by regulations of this part to identify the status of any article.

"Official inspection mark" means any symbol prescribed by the regulations of the Administrator showing that egg products were inspected in accordance with this part.

"Official standards" means the standards of quality, grades, and weight classes for eggs, as described under Part 56 of this chapter under the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended, 7 U.S.C. 1621 et seq.), or as hereafter amended.

"Office of inspection" means the office of any inspector.

"Pasteurize" means the subjecting of each particle of egg products to heat or other treatments to destroy harmful viable microorganisms by such processes as may be prescribed by these regulations.

"Person" means any individual, partnership, corporation, association, or other business unit.

"Pesticide chemical," "Food additive," "Color additive," and "Raw agricultural commodity" shall have the same meaning for purposes of this part as under the Federal Food, Drug, and Cosmetic Act.

"Plant" means any place of business where egg products are processed:

(a) "Exempted plant" means any plant where the Administrator has determined the facilities and operating procedures meet such standards as may be prescribed by this part, and where the eggs received or used in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards of U.S. Consumer Grade B for shell eggs, and where an exemption has been granted.

(b) "Official plant" means any plant in which the plant facilities, methods of operation and sanitary procedures have been found suitable and adequate by the Administrator for the continuous inspection of egg products in accordance with this part and in which inspection service is carried on.

"Potable water" means water that has been approved by a State health authority or other agency or laboratory acceptable to the Administrator as safe for drinking and suitable for food processing.

"Processing" means manufacturing of egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing or drying, or packaging egg products at official plants.

"Producer-packer" means any producer who sorts eggs only from his own production and packs them into their various qualities.

"Quality" means the inherent properties of any product which determine its relative degree of excellence.

"Regional Director" means any employee of the Department in charge of inspection service in a designated geographical region.

"Regulations" means the provisions in this part.

"Regulatory inspector" means any employee of the U.S. Government, or State or local jurisdiction, who is authorized by the Secretary to make such inspections as required in § 59.28 of these regulations.

"Sampling" means the act of taking samples of any product for inspection or analyses.

"Sanitize" means the application of a bactericidal treatment which is approved as being effective in destroying microorganisms, including pathogens.

"Secretary" means the Secretary of Agriculture or his delegate.

"Service" means the Agricultural Marketing Service (AMS) of the Department.

"Shell egg packer" (grading station) means any person engaged in the sorting of eggs from sources other than or in addition to his own production into their various qualities, either mechanically or by other means.

"Stabilization" means the subjection of any egg product to a desugaring process.

"State" means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and the District of Columbia.

"United States" means the States.

"White or albumen" means, for the purpose of this part, the product obtained from the egg as broken from the shell and separated from the yolk.

[36 FR 9814, May 28, 1971, as amended at 37 FR 6657, Apr. 4, 1972; 40 FR 20057, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

ADMINISTRATION

§ 59.10 Authority.

The Administrator shall perform, for and under the supervision of the Secretary, such duties as the Secretary may require in the enforcement or administration of the provisions of the Act, and this part. The Administrator may waive for a limited period any particular provisions of the regulations to permit experimentation so that new procedures, equipment, and processing techniques may be tested to facilitate definite improvements and at the same time to maintain full compliance with the spirit and intent of the regulations. The Agricultural Marketing Service and its officers and employees shall not be liable in damages through acts of commission or omission in the administration of this part.

[42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.13 Federal and State cooperation.

The Secretary shall, whenever he determines that it would effectuate the purposes of the Act, authorize the Administrator to cooperate with appropriate State and other governmental agencies in carrying out any provisions of the Egg Products Inspection Act and these regulations. In carrying out the provisions of the Act and the regulations, the Secretary may conduct such examinations, investigations, and inspections as he determines practicable through any officer or employee of any such agency commissioned by him for such purpose. The Secretary shall reimburse the States and other agencies for the services rendered by them in such cooperative programs as agreed to in the cooperative agreements as signed by the Administrator and the duly authorized agent of the State or other agency.

§ 59.17 Nondiscrimination.

The conduct of all services and the licensing of graders and inspectors under these regulations shall be accomplished without discrimination as to race, color, religion, sex, or national origin.

[40 FR 20057, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.18 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection requirements by the Office of Management and Budget contained in 7 CFR 59 pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511.

(b) *Display.*

7 CFR section where identified and described	Current OMB control No.
§ 59.10	0581-0113
§ 59.22	0581-0113
§ 59.28(a)(1)	0581-0113
§ 59.40	0581-0113
§ 59.105(b)	0581-0113
§ 59.110(a)	0581-0113
§ 59.112	0581-0113
§ 59.122	0581-0113
§ 59.124	0581-0113
§ 59.126	0581-0113
§ 59.128(a)	0581-0113
§ 59.140	0581-0113
§ 59.144	0581-0113
§ 59.146(b)	0581-0113
§ 59.146(d)	0581-0113
§ 59.155	0581-0113
§ 59.160(c)	0581-0113
§ 59.160(d)	0581-0113
§ 59.160(f)(3)	0581-0113
§ 59.160(f)(4)	0581-0113
§ 59.200(a)	0581-0113
§ 59.200(b)	0581-0113
§ 59.220	0581-0113
§ 59.240	0581-0113
§ 59.320	0581-0113
§ 59.402(a)	0581-0113
§ 59.411(a)	0581-0113
§ 59.411(b)	0581-0113
§ 59.411(e)	0581-0113

7 CFR section where identified and described	Current OMB control No.
§ 59.411(f)	0581-0113
§ 59.418(c)	0581-0113
§ 59.430(b)	0581-0113
§ 59.435(b)	0581-0113
§ 59.435(c)	0581-0113
§ 59.440(c)	0581-0113
§ 59.500(h)	0581-0113
§ 59.504(c)	0581-0113
§ 59.504(d)	0581-0113
§ 59.504(h)	0581-0113
§ 59.504(k)	0581-0113
§ 59.504(o)(1)	0581-0113
§ 59.504(o)(2)	0581-0113
§ 59.504(o)(3)(i)	0581-0113
§ 59.504(o)(3)(iii)	0581-0113
§ 59.504(o)(3)(iv)	0581-0113
§ 59.504(o)(3)(v)	0581-0113
§ 59.515(a)(8)	0581-0113
§ 59.520(h)	0581-0113
§ 59.522(f)	0581-0113
§ 59.522(x)	0581-0113
§ 59.522(aa)(2)	0581-0113
§ 59.530(d)	0581-0113
§ 59.534(a)	0581-0113
§ 59.544(b)	0581-0113
§ 59.544(c)	0581-0113
§ 59.544(d)	0581-0113
§ 59.552(a)(3)	0581-0113
§ 59.552(b)(1)(i)	0581-0113
§ 59.552(b)(2)	0581-0113
§ 59.570(c)	0581-0113
§ 59.575(b)(3)	0581-0113
§ 59.575(d)	0581-0113
§ 59.580(c)	0581-0113
§ 59.600	0581-0113
§ 59.610(a)	0581-0113
§ 59.620	0581-0113
§ 59.640(b)(1)	0581-0113
§ 59.680(a)	0581-0113
§ 59.690	0581-0113
§ 59.720(a)(2)	0581-0113
§ 59.720(a)(3)	0581-0113
§ 59.720(a)(4)	0581-0113
§ 59.720(c)	0581-0113
§ 59.760	0581-0113
§ 59.800	0581-0113
§ 59.840	0581-0113
§ 59.920	0581-0113
§ 59.930(f)	0581-0113
§ 59.960	0581-0113
§ 59.965	0581-0113

[48 FR 34238, July 28, 1983, as amended at 50 FR 23270, June 3, 1985]

SCOPE OF INSPECTION

§ 59.20 Inspection in accordance with methods prescribed or approved.

Inspection of eggs and egg products shall be rendered pursuant to these regulations and under such conditions and in accordance with such methods as may be prescribed or approved by the Administrator.

§ 59.22 Basis of service.

These regulations provide for inspection services pursuant to the Egg Products Inspection Act. Eggs and egg products shall be inspected in accordance with such standards, methods, and instructions as may be issued or approved by the Administrator. Inspection services shall be subject to supervision at all times by the applicable Federal-State supervisor, egg products supervisor, Regional Director, and National Supervisor.

§ 59.24 Egg products plants requiring continuous inspection.

No plant in which egg products processing operations are conducted shall process egg products without continuous inspection under these regulations, except as expressly exempted in § 59.100.

§ 59.26 Egg products entering or prepared in official plants.

Eggs and egg products processed in an official plant shall be inspected, processed, marked, and labeled as required by these regulations. Egg products entering an official plant shall have been inspected, processed, marked, and labeled as required by these regulations.

§ 59.28 Other inspections.

(a) Periodic inspections shall be made of:

(1) Business premises, facilities, inventories, operations, and records of egg handlers, and the records of all persons engaged in the business of transporting, shipping, or receiving any eggs or egg products. In the case of shell egg packers packing eggs for the ultimate consumers (i.e., packed for direct use of household consumer, restaurant, institution, etc.), and hatcheries, such inspectons shall be made each calendar quarter.

(2) Exempted plants to determine that such plants are operating pursuant to these regulations.

(b) Inspections shall be made of imported eggs and egg products as required in this part.

[36 FR 9814, May 28, 1971, as amended at 40 FR 20057, May 8, 1975. Redesignated at 42

FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

RELATION TO OTHER AUTHORITIES

§ 59.30 At official plants.

(a) Requirements within the scope of the Act with respect to premises, facilities, and operations of any official plant which are in addition to or different than those made under this part may not be imposed by any State or local jurisdiction except that any such jurisdiction may impose recordkeeping and other requirements within the scope of § 59.200, if consistent therewith, with respect to any such plant.

(b) Labeling, packaging, or ingredient requirements in addition to or different than those made under this part, the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act may not be imposed by any State or local jurisdiction with respect to egg products processed at any official plant in accordance with the requirements under this part and such Acts.

§ 59.35 Eggs and egg products outside official plants.

(a) For eggs which have moved or are moving in interstate or foreign commerce, no State or local jurisdiction (1) may require the use of standards of quality, condition, grade, or weight classes which are in addition to or different than the official standards or (2) other than those in noncontiguous areas of the United States may require labeling to show the State or other geographical area of production or origin. This shall not preclude a State from requiring the name, address, and license number of the person processing or packaging eggs to be shown on each container.

(b) Any State or local jurisdiction may exercise jurisdiction with respect to eggs and egg products for the purpose of preventing the distribution for human food purposes of any such articles which are outside of the official plant and are in violation of this part or any of said Federal Acts or any State or local law consistent therewith.

EGGS AND EGG PRODUCTS NOT INTENDED FOR HUMAN FOOD

§ 59.40 Continuous inspection not provided.

Continuous inspection shall not be provided under this part at any plant for the processing of any egg products which are not intended for use as human food, but such articles prior to their offer for sale or transportation in commerce shall be denatured or decharacterized unless shipped under seal as authorized in §§ 59.504(c) and 59.720(a), and identified as prescribed by the regulations in this part to prevent their use for human food. Periodic inspections shall be made of such operations and records to assure compliance with the Act and the regulations in this part.

[37 FR 6657, Apr. 1, 1972. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.45 Prohibition on eggs and egg products not intended for use as human food.

(a) No person shall buy, sell, or transport or offer to buy or sell, or offer or receive for transportation in commerce, any eggs or egg products which are not intended for use as human food, unless they are denatured or decharacterized, unless shipped under seal as authorized in paragraphs (c) and (d) of this section or in §§ 59.504(c) and 59.720(a) and identified as required by the regulations in this part.

(b) No person shall import or export shell eggs classified as loss, inedible, or incubator rejects or any egg products which are unwholesome, adulterated, or are otherwise unfit for human food purposes, except as provided in paragraphs (c) and (d) of this section, unless they are denatured or decharacterized and identified as required by the regulations in this part.

(c) Egg products which are unwholesome, adulterated, or are otherwise unfit for human food purposes that are not denatured or decharacterized may be exported to foreign countries for industrial use or animal food under the following provisions:

(1) Authorized government official of the foreign country shall approve the importation of such products into that country.

(2) The egg products shall be shipped under U.S. Government seal and identified as required in § 59.840.

(3) Provisions for the control of such inedible product in the foreign country to preclude its use as human food must be established and approved by the Administrator. Such control may consist of, but not be limited to, receipt and inspection by an appropriate U.S. Government official, an official of an approved meat, poultry, or egg products inspection system of the foreign government, or, when acceptable to the Administrator, a foreign government official including other foreign health authorities.

(d) Foreign governments may petition the Administrator for approval to import into this country egg products which are unwholesome, adulterated, or otherwise unfit for human food purposes that are not denatured or decharacterized for industrial use or animal food requirements. Such products shall be subject to the provisions of this part and other applicable laws and regulations for importation into the United States.

[48 FR 34238, July 28, 1983]

EXEMPTIONS

§ 59.100 Specific exemptions.

The following are exempt to the extent prescribed as to the provisions for control of restricted eggs in section 8(a)(1) and (2) of the Act and the provision for continuous inspection of processing operations in section 5(a) of the Act: *Provided*, That as to paragraphs (c) through (f) of this section, the exemptions do not apply to restricted eggs when prohibited by State or local law: *And provided further*, That the sale of "hard-cooked shell eggs" or "peeled hard-cooked shell eggs" prepared from checks is subject to the conditions for exemption in paragraphs (c), (d), and (f) of this section: *And provided further*, That the conditions for exemption and provisions of these regulations are met:

(a) The sale, transportation, possession, or use of eggs which contain no more restricted eggs than are allowed by the tolerances in the official standards for U.S. Consumer Grade B shell eggs;

(b) Subject to the approval of the Administrator as provided in §§ 59.600 through 59.670, the processing of egg products without continuous inspection at any plant where the facilities, sanitation, and operating procedures are the same as are required in this part for official plants and where the eggs received or used in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards for U.S. Consumer Grade B shell eggs, and the egg products processed at such plant;

(c) The sale at the site of production, on a door-to-door retail route, or at an established place of business away from the site of production, by a poultry producer of eggs from his own flock's production directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs: *Provided*, That each such sale of restricted eggs shall be limited to no more than 30 dozen eggs; *And provided further*, (1) That eggs sold directly to consumers at an established place of business away from the site of production be moved directly from the producer to such place of business; (2) that such business away from the site of production be owned and managed by the producer; and (3) that such eggs which are sold on a door-to-door route or at an established place of business away from the site of production shall contain no more loss and/or leakers than allowed in the official standards for U.S. Consumer Grade B shell eggs.

(d) The sale of eggs by any producer with an annual egg production from a flock of 3,000 hens or less and the record requirements of § 59.200;

(e) The processing and sale of egg products by any poultry producer from eggs of his own flock's production when sold directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees;

(f) The sale of eggs by shell egg packers on the premises where the grading station is located, directly to household consumers for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs. Each such sale of "restricted eggs": Shall be limited to no more than 30 dozen eggs;

(g) The processing in nonofficial plants, including but not limited to bakeries, restaurants, and other food processors, without continuous inspection, of certain categories of food products which contain eggs or egg products as an ingredient, and the sale and possession of such products: *Provided*, That such products are manufactured from inspected egg products processed in accordance with this part or from eggs containing no more restricted eggs than are allowed in the official standards for U.S. Consumer Grade B shell eggs;

(h) The purchase, sale, possession, or transportation of shell eggs containing more restricted eggs than allowed in the tolerances for U.S. Consumer Grade B shell eggs: *Provided*, That such eggs are handled in accordance with §§ 59.200 and 59.700 through 59.860 to assure that only eggs fit for human food are used for such purpose. This exemption applies to the following:

(1) Egg producers, assemblers, wholesalers, and grading operations;

(2) Hatcheries;

(3) Transporters;

(4) Laboratories, pharmaceutical companies; and

(5) Processors of products not intended for use as human food.

[36 FR 9814, May 28, 1971, as amended at 40 FR 20057, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.105 Suspension or termination of exemptions.

(a) The Administrator may immediately suspend or terminate any exemption under § 59.100(b) at any time with respect to any person, if the conditions of exemption prescribed by this section are not being met. The Administrator may modify or revoke any regulation of this part, granting exemptions whenever he determines such action appropriate to effectuate the purposes of the Act.

(b) Failure to comply with the condition of the exemptions contained in § 59.100 shall subject such person to the penalties provided for in the Act and in this part.

[36 FR 9814, May 28, 1971, as amended at 40 FR 20057, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

PERFORMANCE OF SERVICE

§ 59.110 Licensed inspectors.

(a) Any person who is a Federal or State employee, or the employee of a local jurisdiction possessing proper qualifications as determined by an examination for competency and who is to perform services pursuant to this part, may be licensed by the Secretary as an inspector.

(b) Licenses issued by the Secretary are to be countersigned by the Administrator or by any other designated official of the Service.

(c) No person may be licensed to inspect any product in which he is financially interested.

[36 FR 9814, May 28, 1971; 36 FR 10841, June 4, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.112 Suspension of license or authority; revocation.

Pending final action by the Secretary, any person authorized to countersign a license to perform inspection services may, whenever he deems such action necessary to assure that any inspection service is properly performed, suspend any license to perform inspection services issued pursuant to this part by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within 7 days after the receipt of the aforesaid notice and statement of reasons by the licensee, he may file an appeal in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid 7-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 7 days, the license is revoked or suspended.

§ 59.114 Surrender of license.

Upon termination of his services as an inspector or whenever his license has been suspended or revoked, the licensee shall surrender his license and other items of identification furnished by the Department immediately to the inspection service.

§ 59.116 Activities of inspectors.

Inspectors at official plants shall confine their activities to those duties necessary in the rendering of inspection service and such closely related activities as may be approved by the Administrator.

§ 59.118 Identification.

Inspectors shall have in their possession at all times while on duty, and present upon request, the means of identification furnished by the Department to such persons.

[36 FR 9814, May 28, 1971; 36 FR 10841, June 4, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.119 Political activity.

Inspectors are forbidden during the period of their respective appointments, or licenses, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, except as authorized by law or regulation of the Department, is prohibited. This applies to all appointees, including but not being limited to temporary and cooperative employees and employees on leave of absence with or without pay. Willful violation of this section or § 59.120 will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

[36 FR 9814, May 28, 1971, as amended at 42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.120 Financial interest of inspectors.

No inspector shall inspect any product in which he is financially interested.

§ 59.122 Time of inspection.

The inspector who is to perform the inspection in an official plant shall be informed by management, in advance, of the hours when such inspection will be required.

§ 59.124 Schedule of operation of official plants.

Operating schedules for an official plant shall be subject to approval of the Administrator. The normal operating schedule shall consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week, within the administrative workweek, Sunday through Saturday, for each full shift required. Clock hours of daily operations need not be specified in a schedule, although as a condition of continuance of approval of a schedule, the hours of operation must be reasonably uniform from day to day.

[48 FR 20683, May 9, 1983]

§ 59.126 Overtime inspection service.

When operations in an official plant require the services of inspection personnel beyond their regularly assigned tour of duty on any day, or on a day outside the established schedule, such services are considered as overtime work. The official plant shall give reasonable advance notice to the inspector of any overtime service necessary and shall pay the Service for such overtime at an hourly rate of $17.32 to cover the cost thereof.

[50 FR 3737, Jan. 28, 1985; 50 FR 10750, Mar. 18, 1985]

§ 59.128 Holiday inspection service.

(a) When an official plant requires inspection service on a holiday or a day designated in lieu of a holiday, such service is considered holiday work. The official plant shall, in advance of such holiday work, request the inspector in charge to furnish inspection service during such period and shall pay the Service therefor at an hourly rate of $14.20 to cover the cost thereof.

(b) The term "holiday" shall mean the legal public holidays specified by the Congress in paragraph (a) of section 6103, Title 5 of the United States Code. Information on legal holidays may be obtained from the supervisor.

[37 FR 6657, Apr. 1, 1972. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 9, Jan. 2, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46071, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

§ 59.130 Basis of billing plants.

Overtime and/or holiday services shall be billed to the official plant on the basis of each 15 minutes of overtime and/or holiday service performed by each inspector providing such service to the plant, except that when an official plant requires the services of an inspector after he has completed his day's assignment and left the plant or when he is called back to duty on a day outside the established normal operating schedule or on a holiday, the official plant shall pay for a minimum of 2 hours service at the applicable established rate. Extra travel expense incurred while rendering overtime or holiday service shall be billed to the official plant. Bills are payable upon receipt and become delinquent 30 days from date of billing. Overtime or holiday inspection service will not be performed at any plant that is delinquent, and processing operations shall be confined to the regular operating schedule of the plant.

§ 59.132 Access to plants.

Access shall not be refused, at any reasonable time, to any representative of the Secretary to any plant or place of business subject to inspection under the provisions of this part upon presentation of proper credentials.

§ 59.134 Accessibility of product.

Each product for which inspection service is required shall be so placed as to disclose fully its class, quality, quantity, and condition as the circumstances may warrant.

§ 59.136 Facilities to be furnished by official plants for use of inspectors in performing service.

(a) Such facilities shall include but not be limited to a sanitary room or area for sampling product, an approved candling light, a heavy duty, high speed (not less than 1,000 r.p.m. under load) drill with an eleven sixteenths inch or larger bit of sufficient length to reach the bottom of a 30-pound can of frozen eggs, metal stem thermometers, test thermometers, a stop watch, test weighing scales, and a satisfactory test kit for determining the bactericidal strength of sanitizing solutions.

(b) Furnished office space and equipment, including but not being limited to a desk (equipped with a satisfactory locking device), lockers or cabinets suitable for the protection and storage of supplies, and facilities suitable for inspectors to change clothing.

APPLICATION FOR SERVICE

§ 59.140 How application shall be made.

The proprietor or operator of each plant processing egg products, unless exempted by § 59.100, shall make application to the Administrator for inspection service. The application shall be made in writing on forms furnished by the inspection service. In cases of change of name or ownership or change of location, a new application shall be made.

§ 59.142 Filing of application.

An application for inspection service shall be regarded as filed only when it has been filled in completely and signed by the applicant and has been received in the office of the Chief of the Grading Branch.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 59.144 Authority of applicant.

Proof of authority of any person applying for inspection service may be required at the discretion of the Administrator.

§ 59.146 Application for continuous inspection in official plants; approval.

Any person desiring to process egg products under continuous inspection service must receive approval of such plant and facilities as an official plant prior to the installation of such service. An application for continuous inspection service to be installed in an official plant shall be approved according to the following procedure:

(a) Initial survey: When an application for continuous inspection in a plant has been filed, a supervisory egg products inspector will make a survey and inspection of the premises and plant to determine if the facilities and methods of operation therein are suitable and adequate for service in accordance with:

(1) These regulations, and

(2) Such other administrative instructions as may be issued from time to time by the Service and which are in effect at the time of the aforesaid survey and inspection.

(b) Drawings and specifications to be furnished:

(1) Applicants may obtain information or assistance as to the requirements before submitting prints of drawings, specifications, and supplemental information from the inspection service.

(2) Three copies of each print drawing as specified in this section of the complete floor plan, plot plan, supplemental information, and specifications shall be submitted. Sheet size of the print shall not exceed 34 by 44 inches, the wording shall be legible, all lines sharp and clear, and properly drawn to scale. Each print shall show the scale used, north point of the compass, and the firm name, street, city, state, and zip code or an accurate description of the location.

(3) Plot plan of entire premises shall include location of all buildings, railroads, roadways, alleys, wells, reservoirs, drains, catch basins, nearby buildings adjoining property, drainage and slope of terrain, character and surfacing of roadways, driveways, and vehicular loading areas. The plot plan may be drawn to a scale of one-thirty-second inch per foot.

(4) Floor plan prints shall include all space on each floor of the official plant, accurately illustrating and describing the facilities. Detailed drawings of processing area shall be drawn to a scale of one-fourth inch per foot. Prints showing only nonprocessing areas may be drawn to a scale of one-eighth inch per foot.

(5) Floor plans shall show the location of such features as walls, partitions, posts, doorways, windows, floor drains and channel drains, air systems, ventilation fans, principal pieces of equipment, storage tanks, hose connections for cleaning purposes, handwashing facilities, lockers, and toilets. The prints shall show slope of floors to drains.

(6) The official plant shall include all processing rooms and other rooms used in the official plant, including but not being limited to the breaking room, equipment washing and sanitizing rooms, shell egg washing rooms, packaging rooms, shell egg and egg products storage rooms (including coolers, freezers, hot rooms), drying rooms, toilet and dressing rooms, storerooms for supplies, and all other rooms, compartments, or passageways where products or any ingredients to be used in the preparation of products under this service will be handled or kept and may include other rooms located in the building comprising the official plant. Except in public warehouses, all rooms, compartments, etc., of the building not to be considered as part of the official plant shall not have direct access into any part of the official plant.

(7) Supplemental information may be shown as notations on the drawings or on supplemental sheets. Supplemental information shall include clarifying information such as sequence of processing edible products, handling of inedible product, shell disposal, handling of packaging material, liquid pumping systems, cleaned-in-place systems, description of pasteurizer, description of drier, type and efficiency of air filtration, hot water facilities, sewage disposal, and such other notations as may be required.

(8) Specification sheets shall include height of ceilings and type construction, type of floors, and wall construction, wall and partition material, and

number of employees who will use each toilet room and facilities.

(c) Upon approval of the prints of drawing, supplemental information, and specifications, the application for service may be approved.

(d) Changes and revisions of official plant: When changes are planned in official plant construction, facilities, and equipment covered by previously approved prints, revised prints shall be submitted for review and approval prior to making the changes by: A completely revised sheet(s) showing proposed alterations and additions or an overlay print drawn to same scale as print to be modified or revised. A final survey of the completed alterations and additions shall be made by the supervisory egg products inspector to determine if the changes are in accordance with approved drawings and the regulations.

(e) Final survey and plant approval: Prior to the inauguration of continuous inspection service, a final survey of the plant and premises shall be made by the supervisory egg products inspector to determine if the plant is constructed and facilities are installed in accordance with the approved drawings and these regulations. The plant may be approved only when these requirements have been met.

[36 FR 9814, May 28, 1971; 36 FR 10841, June 4, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.148 Order of service.

Inspection service shall be performed, insofar as practicable, in the order in which applications therefor are made.

[36 FR 9814, May 28, 1971, as amended at 42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

INAUGURATION OF SERVICE

§ 59.150 Official plant numbers.

An official plant number shall be assigned to each plant granted inspection service. Such plant number shall be used to identify all containers of inspected products prepared in the plant which are capable of use as human food. A plant shall not have more than one plant number.

§ 59.155 Inauguration of service.

Prior to the inauguration of service, the proprietor or operator of the plant shall be knowledgeable of the requirements of these regulations. If the plant at the time service is inaugurated contains any product which has not been inspected and marked in compliance with the regulations, the product shall be segregated, its identity and inventories shall be maintained, and it shall not be represented or dealt with as a product which has been inspected.

DENIAL OF SERVICE

§ 59.160 Refusal, suspension, or withdrawal of service.

(a) The Administrator (for such period, or indefinitely, as he deems necessary to effectuate the purposes of the Act) may refuse to provide or may withdraw inspection service under this part with respect to any plant if he determines after opportunity for a hearing (following the procedures of 7 CFR, Part 1, Subpart H) is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under the Act or this part, because the applicant or recipient or anyone responsibly connected with such person has been convicted in any Federal or State court, within the previous 10 years, of (1) any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or fraud in connection with transactions in food or (2) any felony, involving, fraud, bribery, extortion, or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health.

(b) For the purpose of this section, a person shall be deemed to be responsibly connected with the business if he is a partner, officer, director, holder, or owner of 10 percentum or more of its voting stock, or employee in a managerial or executive capacity.

(c) The determination and order of the Administrator with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within 30 days after the effective date of such order in the U.S. Court of Appeals for the circuit in which such applicant or recipient has its principal place of business or in the U.S. Court of Appeals for the District of Columbia Circuit. Judicial review of any such order shall be upon the record upon which the determination and order are based. The provisions of section 204 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 194) shall be applicable to appeals taken under this section. This section shall not affect in any way other provisions of the Act or these regulations for refusal of inspection services.

(d) Any applicant for inspection at a plant where the operations thereof may result in any discharge into the navigable waters in the United States is required by subsection 401(a)(1) (33 U.S.C. 1341) of the Clean Water Act as amended (86 Stat. 816, 91 Stat. 1566; 33 U.S.C. 1251 *et seq.*), to provide the Administrator with a certification, as prescribed in said subsection, that any such discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of the Act (33 U.S.C. 1311, 1312, 1313, 1316, and 1317). No grant of inspection can be issued unless such certification has been obtained, or is waived, because of failure or refusal of the State, interstate agency, or the Administrator of the Environmental Protection Agency to act on a request for certification within a reasonable period (which shall not exceed 1 year after receipt of such request). Further, upon receipt of an application for inspection and a certification as required by subsection 401(a)(1) of the Clean Water Act, the Administrator (as defined in § 59.5) is required by subparagraph (2) of said subsection to notify the Administrator of the Environmental Protection Agency for proceedings in accordance with that subsection. No grant of inspection can be made until the requirements of 401(a) (1) and (2) have been met.

(e) Inspection may be suspended or revoked and plant approval terminated as provided in subsection 401(a) (4) and (5) of the Clean Water Act, as amended (33 U.S.C. 1341(a) (4) and (5)).

(f) Suspension of plant approval and withdrawal of service:

(1) Any plant approval given pursuant to these regulations may be suspended by the Administrator for (i) failure to maintain premises, facilities, and equipment in a satisfactory state of repair; (ii) the use of operating procedures or practices which are not in accordance with the regulations; (iii) the alterations of buildings, facilities, or equipment which have not been approved in accordance with the regulations; or (iv) assaulting, intimidating, impeding, obstructing, or interfering with any person engaged in or on account of the performance of his official duties.

(2) During such period of suspension, no processing of egg products for commerce shall be carried on in the official plant. If the plant facilities or methods of operation are not brought into compliance within a reasonable period of time, to be specified by the Administrator, inspection service shall be withdrawn from the official plant. Upon withdrawal of inspection service in an official plant, the plant approval for processing egg products shall also become terminated.

(3) The operator shall be notified of the withdrawal action and the reasons therefor and afforded an opportunity to present his views informally prior to the effective date of such withdrawal, and upon written request, he shall be afforded an opportunity for a hearing in accordance with the applicable rules of practice (7 CFR, Part 1, Subpart H), with respect to the merits or validity of the withdrawal, but such a suspension or other withdrawal shall continue in effect pending the outcome of any such hearing unless otherwise ordered by the Administrator.

(4) In any case where inspection service is suspended under this paragraph (f) of this section, such service, after appropriate corrective action is taken, will be restored immediately, or as soon thereafter as an inspector can be made available. In any case where inspection service is withdrawn for a specified period under this paragraph

(f) of this section, the person concerned may, after said specified period has expired, apply for inspection service as provided in §§ 59.140 through 59.146.

[36 FR 9814, May 28, 1971, as amended at 37 FR 6657, Apr. 1, 1972. Redesignated at 42 FR 32514, June 27, 1977, and further amended at 43 FR 60136, Dec. 26, 1978; 45 FR 23640, Apr. 8, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 59.161 Termination of plant approval.

When inspection service is not performed at any plant for a period of at least 90 days, plant approval shall terminate upon notice by the Administrator without further proceedings; provided, however, that this section shall not apply to any plant where the Administrator determines that such a plant operates on a seasonal basis and the inspection service has not been used as a result of such seasonal operation, or where operations have ceased due to extraordinary circumstances determined by the Administrator as not warranting termination of plant approval.

[45 FR 23641, Apr. 8, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

RECORDS AND RELATED REQUIREMENTS FOR EGGS AND EGG PRODUCTS HANDLERS AND RELATED INDUSTRIES

§ 59.200 Records and related requirements.

(a) Persons engaged in the business of transporting, shipping, or receiving any eggs or egg products in commerce, or holding such articles so received, and all egg handlers, including hatcheries, shall maintain records showing, for a period of 2 years, to the extent that they are concerned therewith, the receipt, delivery, sale, movement, and disposition of all eggs and egg products handled by them, and shall, upon the request of an authorized representative of the Secretary, permit him, at reasonable times, to have access to and to copy all such records.

(b) Production records by categories of eggs such as graded eggs, nest-run eggs, dirties, checks, leakers, loss, inedible, etc., bills of sale, inventories, receipts, shipments, shippers, receivers, dates of shipment and receipt, carrier names, etc., as determined by the Administrator, shall be maintained by all shell egg handlers and egg processing operations, except that, (1) producers who ship all of their production as nest-run eggs without segregation need only to maintain records indicating the amount of shell eggs shipped, date of shipment, and the receivers' name and address, and (2) official egg products plants which use all shell eggs received and do not reship any shell eggs need only to maintain records indicating the amount of eggs received, date received, and the name and address of the shipper.

[37 FR 6657, Apr. 1, 1972. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 745, Jan. 7, 1982]

§ 59.220 Information and assistance to be furnished to inspectors.

When inspection service is performed at any plant, the plant operator shall furnish the inspector such information and assistance as may be required for the performance of inspection functions, preparing certificates, reports, and for other official duties.

ADMINISTRATIVE DETENTION

§ 59.240 Detaining product.

Whenever any eggs or egg products subject to the Act are found by any authorized representative of the Secretary upon any premises, and there is reason to believe that they are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation in violation of the Act or the regulations in this part, or that they are in any other way in violation of the Act, or whenever any restricted eggs capable of use as human food are found by such a representative in the possession of any person not authorized to acquire such eggs under the regulations in this part, such articles may be detained by such representative for a period not to exceed 20 days, as more fully provided in section 19 of the Act. A detention tag or other similar device shall be used to identify detained product, and the custodian or owner shall be given a written notice of such detention. Only authorized representatives of the Secretary shall affix or remove detention identification. The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of the Act, the regulations in this part, or other laws.

[37 FR 6658, Apr. 1, 1972. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

APPEAL OF AN INSPECTION OR DECISION

§ 59.300 Who may request an appeal inspection or review of an inspector's decision.

Any appeal inspection may be requested by any interested party who is dissatisfied with the determination by an inspector of the class or condition of any product, and a review may be requested by the operator of an official plant with respect to an inspector's decision or on any other matter related to inspection in the official plant.

§ 59.310 Where to file an appeal.

(a) *Appeal from resident inspector's inspection or decision in an official plant.* Any interested party who is not satisfied with the determination of the class or condition of product which was inspected by an inspector in an official plant and has not left such plant and the operator of any official plant who is not satisfied with a decision by an inspector on any other matter relating to inspection in such plant may request an appeal inspection or review of the decision by the inspector by filing such request with the inspector's immediate supervisor.

(b) *All other appeal requests.* Any interested party who is not satisfied with the determination of the class, quantity, or condition of product which has left the official plant where it was inspected or which was inspected other than in an official plant may request an appeal inspection by filing such request with the Regional Director in the region where the product is located or with the Chief of the Grading Branch.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 59.320 How to file an appeal.

Any request for an appeal inspection or review of an inspector's decision may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the reasons for requesting the appeal service and a description of the product, or the decision which is questioned.

§ 59.340 Who shall perform the appeal.

(a) An appeal inspection or review of a decision requested under § 59.310(a) shall be made by the inspector's immediate supervisor or by a licensed inspector assigned by the immediate supervisor other than the inspector whose inspection or decision is being appealed.

(b) The assignment of the inspector(s) who will make the appeal inspection under § 59.310(b) shall be made by the Regional Director or the Chief of the Grading Branch, Poultry Division, Agricultural Marketing Service.

§ 59.350 Procedures for selecting appeal samples.

(a) *Laboratory analyses.* The appeal sample shall consist of product taken from the original sample containers plus an equal number of containers selected at random. When the original sample containers cannot be located, the appeal sample shall consist of product taken at random from double the number of original sample containers.

(b) *Condition inspection.* The appeal sample shall consist of product taken from the original sample containers plus an equal number of containers selected at random. A condition appeal cannot be made unless all originally sampled containers are available.

§ 59.360 Appeal inspection certificates.

Immediately after an appeal inspection is completed, an appeal certificate shall be issued to show that the original inspection was sustained or was not sustained. Such certificate shall supersede any previously issued certificate for the product involved and shall clearly identify the number and date of the superseded certificate. The issuance of the appeal certificate may be withheld until any previously issued certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Government. When the appeal inspector assigns a different class to the lot, the labeling shall be corrected.

§ 59.370 Cost of appeals.

(a) There shall be no cost to the appellant when the appeal inspection discloses a material error was made in the original determination.

(b) The costs of an appeal shall be borne by the appellant at an hourly rate of $19.92, including travel time and expenses if the appeal was frivolous, including but not being limited to the following: The appeal inspection discloses that no material error was made in the original inspection, the condition of the product has undergone a material change since the original inspection, the original lot has changed in some manner, or the Act or these regulations have not been complied with.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 49571, Oct. 7, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 50 FR 3737, Jan. 28, 1985; 50 FR 10750, Mar. 18, 1985]

CERTIFICATES

§ 59.400 Form of certificates.

All certificates shall be issued on forms approved by the Administrator.

§ 59.402 Egg products inspection certificates.

(a) Upon request of the applicant or the Service, any inspector is authorized to issue an egg products inspection certificate with respect to any lot of egg products inspected by him. In addition, an inspector is authorized to issue an inspection certificate covering product inspected in whole or in part by another inspector when the inspector has knowledge that the product is eligible for certification based on personal examination of the product or official inspection records.

(b) Each egg products inspection certificate shall show the name and address of the processor, the class and quantity of the egg products covered by such certificate, such shipping marks as are necessary to identify such products, all pertinent information concerning the wholesomeness thereof, and such other information as the Administrator may prescribe or approve.

§ 59.404 Erasures or alterations made on official certificates.

Erasures or alterations shall be initialed by the issuing inspector on the original certificate and any copy thereof. All certificates made useless through clerical error or otherwise and all certificates canceled for whatever cause shall be voided and initialed and the original and all other copies shall be forwarded as prescribed by the Administrator.

§ 59.406 Disposition of official certificates.

The original and up to two copies of each official certificate shall be issued to the applicant or person designated by him. Other copies shall be filed and retained in accordance with the disposition schedule for inspection program records.

IDENTIFYING AND MARKING PRODUCT

§ 59.410 Egg products required to be labeled.

Containers and portable tanks of edible egg products, prior to leaving the official plant, shall be labeled in accordance with §§ 59.411 through 59.415 and shall bear the official identification shown in Figure 2 of § 59.412 or Figure 3 or 4 of § 59.415. Bulk transport shipments of liquid pasteurized egg products to nonofficial outlets need not be sealed. Bulk shipments of liquid egg products transported from one official plant to another shall be sealed and accompanied by an official certificate.

[40 FR 20058, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.411 Requirement of formulas and approval of labels for use in official egg products plants.

(a) No label, container, or packaging material which bears official identification may bear any statement that is false or misleading. Any label, container, or packaging material which bears any official identification shall be used only in such manner as the Administrator may prescribe. No label, container, or packaging material bearing official identification may be used unless it is approved by the Administrator in accordance with paragraph (b) of this section. The use of finished labels must be approved as prescribed by the Administrator. If the label is printed on or otherwise applied directly to the container or packaging material, the principal display panel thereof shall be considered as the label.

(b) No label, container, or packaging material bearing official identification may be printed or prepared for use until the printers' or other final proof has been approved by the Administrator in accordance with the regulations in this part, the Egg Products Inspection Act, the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, and the regulations promulgated under these acts. Copies of each label submitted for approval shall be accompanied by:

(1) A statement showing by their common or usual names the kinds and percentages of the ingredients comprising the egg product in the form in which it is to be used (i.e., liquid or dried). Approximate percentages (range) may be given in cases where the percentages may vary from time to time.

(2) When required, scientific data demonstrating that the substance or mixture is safe and effective for its intended use and does not promote deception or cause the product to be otherwise adulterated or misbranded.

(c) Containers of product bearing official identification shall display the following information:

(1) The common or usual name, if any, and if the product is comprised of two or more ingredients, such ingredients shall be listed in the order of descending proportions by weight. When water (excluding that used to reconstitute dehydrated ingredients back to their normal composition) is added to a liquid or frozen egg product or to an ingredient of such products (in excess of the normal water content of that ingredient), the total amount of water added, including the water content of any cellulose or vegetable gums used, shall be expressed as a percentage of the total product weight in the ingredient statement on the label.

(2) The name, address, and ZIP code of the packer or distributor. When the distributor is shown, it shall be qualified by such terms as "packed for," "distributed by," or "distributors";

(3) The lot number or production code number;

(4) The net contents;

(5) Official identification and plant number;

(6) Egg products which are produced in an official plant from edible shell eggs of other than current production or from other egg products produced from shell eggs of other than current production, shall be clearly and distinctly labeled in close proximity to the common or usual name of the product, e.g., "Manufactured from eggs of other than current production";

(7) Egg products produced from edible shell eggs or the egg product produced from such shell eggs of the turkey, duck, goose, or guinea shall be clearly and distinctly labeled as to the common or usual name of the product indicating the type of eggs or egg products used in the product, e.g., "Frozen whole turkey eggs," "Frozen whole chicken and turkey eggs." Egg products labeled without qualifying words as to the type of shell egg used in the product shall be produced only from the edible shell egg of the domesticated chicken or the egg product produced from such shell eggs.

(d) Liquid or frozen egg products identified as whole eggs and prepared other than in natural proportions, as so broken from the shell, shall have a total egg solids content of 24.70 percent or greater.

(e) Nutrition information may be included on the label of egg products, providing such labeling complies with the provisions of 21 CFR Part 1, Regulations for the Enforcement of the

Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act. Since these regulations have different requirements for consumer packaged products than for bulk packaged egg products not for sale or distribution to household consumers, label submission shall be accompanied with information indicating whether the label covers consumer packaged or bulk packaged product. Nutrition labeling is required when nutrients, such as proteins, vitamins, and minerals are added to the product, or when a nutritional claim or information is presented on the labeling, except for the following which are exempt from nutrition labeling requirements:

(1) Egg products shipped in bulk form for use solely in the manufacture of other food and not for distribution to household consumers in such bulk form or containers.

(2) Products containing an added vitamin, mineral, or protein, or for which a nutritional claim is made on the label, or in advertising, which is supplied for institutional food use only: *Provided*, That the manufacturer or distributor provides the required nutrition information directly to those institutions.

(3) Any nutrient(s) included in product solely for technological purpose may be declared solely in the ingredients statement, without complying with nutrition labeling, if the nutrient(s) is otherwise not referred to in labeling or in advertising. Labels will not be approved by the Department without comments from the Food and Drug Administration regarding nutritional claims, formulation, and test data.

(f) If the Administrator has reason to believe that the statement on formulation shows the product to be adulterated or misbranded or that any labeling, or the size or form of any container in use or proposed for use in respect to egg products at any official plant is false or misleading in any way, he may direct that such use be withheld unless the labeling or container is modified in such a manner as he may prescribe so that it will not be false or misleading, and/or the formulation of the product is altered in such a manner that he may prescribe so that it is not adulterated, or would not cause misbranding. Any person so denied the approval of any label shall be notified promptly of the reasons for the denial on a form approved by the Administrator. If the person using or proposing to use the label does not accept the determination of the Administrator, he may request a hearing by filing with the Administrator within 10 days after receiving the notice of denial, a written application for a hearing setting forth specifically, the errors alleged to have been made by the Administrator in denying approval of the label. The use of the label shall be withheld pending hearing and final determination by the Administrator if the Administrator so directs. Hearings held pursuant to this subsection shall be presided at by the Administrator. The applicant shall be given the opportunity to present evidence both oral and written in support of his allegation that the Administrator erred in denying approval of the label. The notice of denial together with all other available data and information used as a basis for such denial shall be considered part of the record. The Administrator may take official notice of such matters as are judicially noticed by the Courts of the United States and of any other matter of technical, scientific, or commercial fact of established character. The Administrator shall make his final determination with respect to the matter upon the basis of evidence before him. Such determination shall be conclusive unless, within 30 days after the receipt of notice of such final determination, the person adversely affected thereby appeals to the U.S. Court of Appeals for the circuit in which he has his principal place of business, or to the U.S. Court of Appeals for the District of Columbia Circuit. The provisions of section 204 of the Packers and Stockyards Act of 1921, as amended, shall be applicable to appeals taken under this section.

[37 FR 6658, Apr. 1, 1972, as amended at 40 FR 20058, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and further amended at 45 FR 23641, Apr. 8, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 59.412 Form of official identification symbol and inspection mark.

(a) The shield set forth in Figure 1 containing the letters "USDA" shall be the official identification symbol for purposes of this part and, when used, imitated, or simulated in any manner in connection with a product, shall be deemed to constitute a representation that the product has been officially inspected.

(b) The inspection mark which is to be used on containers of edible egg products shall be contained within the outline of a shield and with the wording and design set forth in Figure 2 of this section, except the plant number may be omitted from the official identification if applied elsewhere on the container.

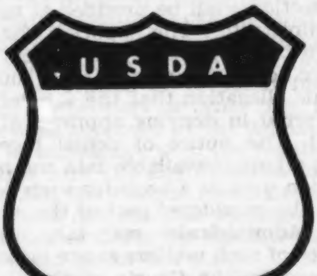

FIGURE 1.

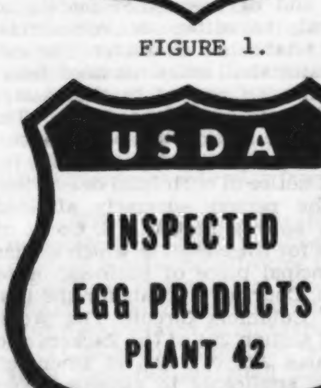

FIGURE 2.

[36 FR 9814, May 28, 1971, as amended at 40 FR 20058, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.414 Products bearing the official inspection mark.

Egg products which are permitted to bear the inspection mark shall be processed in an official plant from edible shell eggs or other edible egg products and may contain other edible ingredients. The official mark shall be printed or lithographed and applied as a part of the principal display panel of the container but shall not be applied to a detachable cover.

§ 59.415 Use of other official identification.

Other official identification as shown in this section shall be printed or lithographed and applied as a part of the principal display panel, but shall not be applied to a detachable cover. The plant number may be omitted from the identification if applied elsewhere on the label or container. Such products shall meet all requirements for egg products which are permitted to bear the official inspection mark shown in § 59.412, except for pasteurization, heat treatment, or other such methods of treatment approved by the Administrator. Such products shall not be released into consuming channels until they have been subjected to pasteurization, heat treatment, or other approved methods of treatment.

(a) All nonpasteurized egg products, except as provided in paragraph (b) of this section, shipped from an official plant in packaged form shall be marked with the identification set forth in Figure 3 of this section. After pasteurization or treatment, the product may bear the official inspection mark as shown in § 59.412.

EGG PRODUCTS

FOR FURTHER PROCESSING
IN AN OFFICIAL USDA PLANT

PLANT NO. 42

FIGURE 3

(b) All nonpasteurized egg products, containing 10 percent or more added salt, shipped from an official plant in packaged form to an acidic dressing manufacturer shall be marked with the identification set forth in Figure 4 of this section.

UNPASTEURIZED
SALTED EGG PRODUCTS

FOR USE IN
ACIDIC DRESSINGS ONLY

PLANT NO. 42

FIGURE 4

[36 FR 9814, May 28, 1971; 36 FR 10841, June 4, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.417 Unauthorized use or disposition of approved labels.

(a) Containers or labels which bear official identification approved for use pursuant to § 59.411 shall be used only for the purpose for which approved. Any unauthorized use or disposition of approved containers or labels which bear any official identification may result in cancellation of the approval and denial of the use of containers or labels bearing official identification and may subject such violator to the penalties and denial of the benefits of the Act;

(b) The use of simulations or imitations of any official identification by any person is prohibited;

(c) Upon termination of inspection service in an official plant pursuant to these regulations, all labels, seals, tags, or packaging material bearing official identification shall, under the supervision of a person designated by the Service, either be destroyed or the official identification completely obliterated, or inventoried and sealed in a manner acceptable to the Service.

[36 FR 9814, May 28, 1971, as amended at 40 FR 20059, May 8, 1975; 42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.418 Supervision of marking and packaging.

(a) *Evidence of label approval.* No inspector shall authorize the use of official identification on any inspected product unless he has on file evidence that such official identification or packaging material bearing such official identification has been approved in accordance with the provisions of § 59.411.

(b) *Affixing of official identification.* No official identification shall be, or caused to be affixed to or placed on any product or container except by an inspector or under the supervision of an inspector or other person authorized by the Administrator. All such products shall have been inspected in accordance with these regulations. The inspector shall have supervision over the use and handling of all material bearing any official identification.

(c) *Labels for products sold under Government contract.* The inspector in the official plant may approve use of labels for containers of product sold under a contract specification to governmental agencies when such product is not offered for resale to the general public: *Provided,* That the contract specifications have been approved by the Administrator and include complete specific requirements with respect to labeling and are made available to the inspector.

§ 59.419 Reuse of containers bearing official identification prohibited.

The reuse, by any person, of containers bearing official identification is prohibited unless such identification is applicable in all respects to product being packed therein. In such instances, the container and label may be used provided the packaging is accomplished under the supervision of an inspector and the container is in compliance with § 59.504(k).

INSPECTION, REINSPECTION, CONDEMNATION, AND RETENTION

§ 59.420 Inspection.

(a) Continuous inspection shall be made, pursuant to these regulations, of the processing of egg products in each official plant processing egg products for commerce unless exempted under § 59.100. Inspections, certifications, or specification-type gradings, and other inspections which may be requested by the official plant and are in addition to the normal inspection requirements and functions for the processing, production, or certification of a wholesome egg product under this part, shall be made pursuant to the voluntary egg products inspection service (Part 55 of this chapter).

(b) Any food manufacturing establishment or institution which uses any eggs that do not meet the requirements of § 59.100(a) in the preparation of any articles for human food shall be deemed to be a plant processing egg products requiring continuous inspection under this part.

(c) Any product which is prepared under inspection in an official plant shall be inspected in such plant as often as the inspector deems necessary in order to ascertain if the product is unadulterated, wholesome, properly labeled, and fit for human food at the time it leaves the plant. Upon any such inspection, if any product or portion thereof is found to be adulterated, unwholesome, or otherwise unfit for human food, such product or portion thereof shall be condemned and shall receive such treatment as provided in § 59.422.

§ 59.422 Condemnation.

Eggs and egg products found to be adulterated at official plants shall be condemned and, if no appeal be taken from such determination of condemnation, such articles shall be destroyed for human food purposes under the supervision of an inspector: *Provided*, That articles which may by reprocessing be made not adulterated need not be condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated. If an appeal is requested, the eggs or egg products shall be appropriately marked and segregated pending completion of an appeal inspection. The appeal shall be at the cost of the appellant if the Administrator determines that the appeal is frivolous, as defined in § 59.370.

§ 59.424 Reinspection.

(a) No egg product may be brought into an official plant except as provided in § 59.430(b) unless it has been prepared and handled in accordance with these regulations, and the container of such product is marked so as to identify the article as so inspected in accordance with this part.

(b) All egg products shall be reinspected by an inspector at the time they are brought into the official plant. Upon reinspection, if any such product or portion thereof is found to be unsound, unwholesome, adulterated, or otherwise unfit for human food, such product or portion thereof, shall be condemned and shall receive such treatment as provided in § 59.422, and shall, in the case of other products be disposed of according to applicable law.

§ 59.426 Retention.

Retention tags or other devices and methods as may be approved by the Administrator shall be used for the identification and control of products which are not in compliance with the regulations or are held for further examination, and any equipment, utensils, rooms or compartments which are found to be unclean or otherwise in violation of the regulations. No product, equipment, utensil, room, or compartment shall be released for use until it has been made acceptable. Such identification shall not be removed by anyone other than an inspector.

ENTRY OF MATERIAL INTO OFFICIAL EGG PRODUCTS PLANTS

§ 59.430 Limitation on entry of material.

(a) The Administrator shall limit the entry of eggs and egg products and other materials into official plants under such conditions as he may prescribe to assure that allowing the entry of such articles will be consistent with the purposes of the Act and these regulations.

(b) Inedible egg products may be brought into an official plant for storage and reshipment: *Provided,* they are handled in such a manner that adequate segregation and inventory controls are maintained at all times. Inedible egg products may be processed in official plants: *Provided,* That prior approval is obtained from the Administrator and under such conditions and time limitations as the Administrator may specify. The processing of inedible egg products shall be done under conditions which will not affect the processing of edible products, such as processing in separate areas, or at times when no edible product is being processed. All equipment and processing areas must be thoroughly cleaned and sanitized prior to processing any edible product.

[36 FR 9814, May 28, 1971, as amended at 40 FR 20059, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.435 Wholesomeness and approval of materials.

(a) Substances and ingredients used in the manufacture or preparation of any egg product capable of use as human food shall be clean, wholesome, and unadulterated.

(b) The use of chemical additives in egg products shall be permitted only when they are approved by the Administrator. The Administrator may require, in addition to listing the ingredients, a declaration of the additive, and the purpose of its use.

(c) Chemical additives to be used in the preparation of egg products will be approved only if they comply with the following criteria:

(1) The additive shall be safe under the conditions of its intended use.

(2) The additive shall not promote deception or cause the product to be otherwise adulterated or unwholesome. Scientific data acceptable to the Administrator showing that the additive meets the criteria specified in this paragraph (c) shall be submitted by the person interested in having the additive approved.

(d) Containers and packing or packaging materials in which shell eggs are received into the official plant shall be free from odors and materials which could contaminate or adulterate the eggs or egg products.

§ 59.440 Processing ova.

(a) Ova from slaughtered poultry may be brought into the official plant for processing: *Provided,* That the ova is from wholesome poultry inspected in a plant operating under the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) and such product is harvested in a sanitary manner, properly handled, cooled, packaged and labeled: *And provided further,* That such product is wholesome and the containers of such product bear official identification which assures the provisions of this paragraph have been met.

(b) The ova and products containing ova shall be processed, cooled, and pasteurized in the official plant in the same manner as liquid, frozen, or dried yolk products.

(c) The labeling for all products containing ova shall be approved by the Administrator prior to use.

SANITARY, PROCESSING, AND FACILITY REQUIREMENTS

§ 59.500 Plant requirements.

(a) The plant shall be free from objectionable odors, dust, and smokeladen air.

(b) The premises shall be free from refuse, rubbish, waste, and other materials and conditions which constitute a source of odors or a harbor for insects, rodents, and other vermin.

(c) The buildings shall be of sound construction and kept in good repair to prevent the entrance or harboring of vermin.

(d) Rooms shall be kept free from refuse, rubbish, waste materials, odors, insects, rodents, and from any conditions which may constitute a source of odors or engender insects and rodents. Materials and equipment not currently needed shall be handled or stored in a manner so as not to constitute a sanitary hazard.

(e) Doors and windows that open to the outside shall be protected against the entrance of flies and other insects. Doors and windows serving rooms where edible product is exposed shall be so designed and installed to prevent the entrance of dust and dirt. Doors leading into rooms where edible product is processed shall be of solid construction and such doors, other than freezer and cooler doors, shall be fitted with self-closing devices.

(f) Doors and other openings which are accessible to rodents shall be of rodent-proof construction.

(g) There shall be an efficient drainage and plumbing system for the plant and premises. Drains and gutters shall be properly installed with approved traps and vents. The sewage system shall have adequate slope and capacity to readily remove waste from the various processing operations. Floor drains shall be equipped with traps, and constructed so as to minimize clogging. In new or remodeled construction the drainage systems from toilets and laboratories shall not be connected with other drainage systems within the plant.

(h) The water supply (both hot and cold) shall be ample, clean, and potable, with adequate pressure and facilities for its distribution throughout the plant or portion thereof utilized for egg processing and handling operations and protected against contamination and pollution. A water report, issued under the authority of a State or municipal health agency, certifying to the potability of the water supply shall be obtained by the applicant and furnished to the Administrator whenever such report is required by the Administrator.

(i) The floors, walls, ceiling, partitions, posts, doors, and other parts of all structures shall be of such materials, construction, and finish to permit their ready and thorough cleaning. The floors and curbing shall be watertight.

(j) Each room and each compartment in which any shell eggs or egg products are handled or processed shall be so designed, constructed, and maintained to insure processing and operating conditions of a clean and orderly character, free from objectionable odors and vapors, and maintained in a clean and sanitary condition.

(k) Every precaution shall be taken to exclude dogs, cats, and vermin (including, but not being limited to, rodents and insects) from the plant, or portion thereof utilized in which shell eggs or egg products are handled or stored.

(l)(1) There shall be a sufficient number of adequately lighted dressing rooms and toilet rooms, ample in size, conveniently located and separated from the rooms and compartments in which shell eggs or egg products are handled, processed, or stored. The dressing rooms and toilet rooms shall be separately ventilated, and shall meet all requirements as to sanitary construction and equipment.

(2) The following formula shall serve as a basis for determining the toilet facilities required:

Persons of same sex	Toilet bowls required
1 to 15, inclusive	1
16 to 35, inclusive	2
36 to 55, inclusive	[1] 3
56 to 80, inclusive	[1] 4
For each additional 30 persons in excess of 80	[1] 1

[1] Urinals may be substituted for toilet bowls but only to the extent of one-third of the total number of bowls stated.

(m) Lavatory accommodations (including, but not being limited to, hot and cold running water, single service towels, and soap which does not impart an odor which interferes with accurate evaluation of the product) shall be placed at such locations in the plant to assure cleanliness of each person handling any shell eggs or egg products. The hand washing facilities in the processing areas shall be operated by other than hand operated controls and the drains shall be trapped and connected to the plumbing system.

(n) Suitable facilities for cleaning and sanitizing utensils and equipment shall be provided at convenient locations throughout the plant.

(o) Refuse rooms shall be provided for the accumulation and storage of shells, trash, and other refuse. They shall be separate rooms completely enclosed without doorways opening into breaking rooms or rooms where egg products or packaging materials are handled or stored and have concrete floors with approved drains, facilities for cleaning, and an approved exhaust system vented to the outside. Alternative systems of handling shells, trash, and other refuse may be approved by the Administrator when such systems adequately contain all refuse and provide equivalent sanitary methods for the handling and removal of refuse.

[36 FR 9814, May 28, 1971; 36 FR 10841, June 4, 1971, as amended at 40 FR 20059, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and further amended at 45 FR 23641, Apr. 8, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 59.502 Equipment and utensils; PCB-containing equipment.

(a) Equipment and utensils used in processing shell eggs and egg products shall be of such design, material, and construction as will:

(1) Enable the examination, segregation, and processing of such products in an efficient, clean, and satisfactory manner;

(2) Permit easy access to all parts to insure thorough cleaning and sanitizing. So far as is practicable, all such equipment shall be made of metal or other impervious material which will not affect the product by chemical action or physical contact.

(b) Except as authorized by the Administrator, in new or remodeled equipment and equipment installations, the equipment installations and the equipment shall comply with the applicable E-3-A Sanitary Standards and Accepted Practices in effect for such equipment.

(c) New or replacement equipment or machinery (including any replacement parts) brought onto the premises of any official plant shall not contain liquid polychlorinated biphenyls (PCBs) in concentrations above 50 parts per million by weight of the liquid medium. This provision applies to both food processing and nonfood processing equipment and machinery, and any replacement parts for such equipment and machinery. Totally enclosed capacitors containing less than 3 pounds of PCBs are exempted from this prohibition.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and amended at 45 FR 68919, Oct. 17, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 59.504 General operating procedures.

(a) Operations involving processing, storing, and handling of shell eggs, ingredients, and egg products shall be strictly in accord with clean and sanitary methods and shall be conducted as rapidly as practicable. Pasteurization, heat treatment, stabilization, and other processes shall be in accord with this part and as approved by the Administrator. Processing methods and temperatures in all operations shall be such as will prevent a deterioration of the egg products.

(b) Shell eggs and egg products processed in official plants shall be subjected to constant and continuous inspection throughout each and every processing operation. Any shell egg or egg product which was not processed in accordance with these regulations or is not fit for human food shall be removed and segregated.

(c) All loss and inedible eggs or egg products shall be placed in a container clearly labeled "inedible" and containing a sufficient amount of approved denaturant or decharacterant, such as FD&C brown, blue, black, or green colors, meat and fish by-products, grain and milling by-products, or any other substance, as approved by the Administrator, that will accomplish the purposes of this section. Shell eggs shall be crushed and the substance shall be dispersed through the product in amounts sufficient to give the product a distinctive appearance or odor. Notwithstanding the foregoing, and upon permission of the Inspector, the applicant may hold inedible product in containers clearly labeled inedible which do not contain a denaturant if such inedible product is denatured or decharacterized prior to shipment from the official plant: *Provided*, That such product is properly packaged, labeled, segregated, and inventory controls are maintained. In addition, product shipped from the official plant for industrial use or animal food need not be denatured or decharacterized if it is shipped under Government seal and is received by an inspector or grader as defined in this part.

(d) The inspector may, prior to receipt of laboratory results for salmonella, or for other reasons such as labeling as to solids content, permit egg products to be shipped from the official plant when he has no reason to suspect noncompliance with any of the provisions of this part. However, such shipments shall be made under circumstances which will assure the return of the product to the plant for reprocessing, relabeling, or under such other conditions as the Administrator may determine to assure compliance with this part.

(e) Pasteurizing, stabilizing, or drying operations shall start as soon as practicable after breaking to prevent deterioration of product, preferably within 72 hours from time of breaking for egg products other than whites which are to be desugared.

(f) Each person who is to handle any exposed or unpacked egg products or any utensils or container which may come into contact with egg product, shall wash his hands and maintain them in a clean condition.

(g) No product or material which creates an objectionable condition shall be processed, stored, or handled in any room, compartment, or place where any shell eggs or egg products are processed, stored or handled.

(h) Only germicides, insecticides, rodenticides, detergents, or wetting agents or other similar compounds which will not deleteriously affect the eggs or egg products and which have been approved by the Administrator may be used in an official plant. The use of such compounds shall be in a manner satisfactory to the adminictrator.

(i) Utensils and equipment which are contaminated during the course of processing any shell eggs or egg products shall be removed from use immediately and shall not be used again until cleaned and sanitized.

(j) Any substance or ingredient added in the processing of any egg products shall be clean and fit for human food.

(k) Packages or containers for egg products shall be of sanitary design and clean when being filled with any egg products; and all reasonable precautions shall be taken to avoid soiling or contaminating the surface of any package or container liner which is, or will be, in direct contact with such egg products. Only new containers or used containers that are clean, in sound condition and lined with suitable inner liners shall be used for packaging edible egg products. Fiber containers used without liners require the approval of the Administrator.

(l) Egg products shall be inspected to determine the wholesomeness of the finished product.

(m) Egg products shall be processed in such a manner as to insure the immediate removal of blood and meat spots, shell particles, and foreign materials.

(n) Utensils and equipment, except drying units, powder conveyors, sifters, blenders, and mechanical powder coolers shall be clean and sanitized at the start of processing operations. Equipment and utensils shall be kept clean and sanitary during all processing operations.

(o) Egg products prior to being released into consuming channels shall be pasteurized in accordance with § 59.570 except that dried whites prepared from nonpasteurized liquid shall be heat treated in accordance with § 59.575.

(1) To assure adequate pasteurization, egg products shall be sampled and tested for the presence of salmonella. Sampling for the presence of salmonella shall be in accordance with § 59.580 and product found to be salmonella positive shall be reprocessed, pasteurized, and analyzed for the presence of salmonella, or denatured.

(2) Nonpasteurized or salmonella positive egg product may be shipped from an official plant only when it is to be pasteurized, repasteurized, or heat treated in another official plant. Shipments of products from one official plant to another for pasteurization, repasteurization, or heat treat-

ment shall be in sealed cars or trucks with an accompanying certificate stating that the product is not pasteurized or is salmonella positive. If nonpasteurized or salmonella positive products are to be stored in other than the official plant facilities, the inspector at the consignee's and consignor's plants shall be given full knowledge of the disposition of the product, including warehouse inventory receipts, until such time as product is pasteurized, repasteurized, or heat treated. The containers of such nonpasteurized or salmonella positive product shall be marked with the identification mark shown in Figure 3 of § 59.415.

(3) Notwithstanding the provision of paragraph (o)(2) of this section, nonpasteurized salted egg products containing 10 percent or more salt added may be shipped from an official plant directly to a manufacturer of acidic dressings only under the following provisions:

(i) Before such shipment is made, the manufacturer of the acidic dressing shall apply in writing and receive permission from the Administrator to receive and use unpasteurized egg products. The applicant shall sign a written statement containing the specification for the treatment of the nonpasteurized egg product in a manner that will insure that viable salmonella microorganisms are destroyed, and such processing treatment shall be approved by the Administrator prior to use.

(ii) Product shall be shipped under seal from the official plant, accompanied by an official USDA certificate stating that the product is nonpasteurized and for use in acidic dressings only.

(iii) The applicant shall acknowledge receipt of each shipment by indicating on the reverse side of the USDA certificate. "The quantity of nonpasteurized egg product stated on this certificate was received at ———," the blank being filled in with the name and address of the receiving company and the date and signature of the person completing the form. The certificate shall be returned to the USDA inspector at the origin plant.

(iv) The acidic dressing manufacturer shall maintain processing records indicating the use of each shipment of unpasteurized salted product and the code lots of acidic dressing into which it was processed. Records of the pH and the acidity expressed as percent acetic acid of each code lot shall be maintained. The records shall also demonstrate that the acidic dressing was held 72 hours prior to shipment. These records shall be maintained for 2 years and shall be available for inspection by a representative of the Department.

(v) Each container of salted egg product shipped from the official plant shall be labeled as required in § 59.411, and shall bear the words "Caution—this egg product has not been pasteurized or otherwise treated to destroy viable salmonella microorganisms," and shall bear the official identification shown in figure 4 of § 59.415.

(p) Air which is to come in contact with product or with product contact surfaces shall come from approved filtered outside air sources.

(q) All liquid and solid waste material in the official plant shall be disposed of in a manner approved by the Administrator to prevent product contamination and in accordance with acceptable environmental protection practices.

[36 FR 9814, May 28, 1971, as amended at 37 FR 6658, Apr. 1, 1972; 40 FR 20059, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 745, Jan. 7, 1982]

§ 59.506 Candling and transfer-room facilities and equipment.

(a) The room shall be so constructed that it can be adequately darkened to assure accuracy in removal of inedible or loss eggs by candling. Equipment shall be arranged so as to facilitate cleaning and the removal of refuse and excess packing material.

(b) The construction of the floor shall allow thorough cleaning. The floors shall be of water-resistant composition and provided with proper drainage.

(c) An approved exhaust system shall be provided for the continuous removal directly to the outside of any steam, vapors, odors, or dust in the room. The room shall be maintained at reasonable working temperatures during operations.

(d) Candling devices of an approved type shall be provided to enable candlers to detect loss, inedible, dirty, or checked eggs, and eggs other than chicken eggs.

(e) Leaker trays shall be made of a material and of such design that is conducive to easy cleaning and sanitizing.

(f) Containers made of a material and of such design that are conducive to easy cleaning shall be provided for inedible eggs. All such containers shall be conspicuously marked.

(g) Containers made of a material and of such design that are conducive to easy cleaning shall be provided for trash unless clean, disposable containers are furnished daily.

(h) Shell egg conveyors shall be constructed so that they can be thoroughly cleaned.

[36 FR 9814, May 28, 1971, as amended at 37 FR 6659, Apr. 1, 1972. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.508 Candling and transfer-room operations.

(a) Candling and transfer rooms and equipment shall be kept clean, free from cobwebs, dust, objectionable odors, and excess packing materials.

(b) Containers for trash and inedible eggs shall be removed from the candling rooms as often as necessary but at least once daily; and shall be cleaned and treated in such a manner as will prevent off odors or objectionable conditions in the plant.

(c) Shell eggs shall be handled in a manner to minimize sweating prior to breaking.

(d) Shell eggs with extensively damaged shells, unless prohibited under § 59.510(d), shall be placed into leaker trays and shall be broken promptly.

§ 59.510 Classifications of shell eggs used in the processing of egg products.

(a) The shell eggs shall be sorted and classified into the following categories in a manner approved by the National Supervisor:

(1) Eggs listed in paragraph (d) of this section.

(2) Dirty.

(3) Leakers as described in paragraph (c)(2) of this section.

(4) Eggs from other than chicken; duck, turkey, guinea, and goose eggs.

(5) Other eggs—satisfactory for use as breaking stock.

(b) Shell eggs having strong odors or eggs received in cases having strong odors shall be candled and broken separately to determine their acceptability.

(c) Shell eggs, when presented for breaking, shall be of edible interior quality and the shell shall be sound and free of adhering dirt and foreign material, except that:

(1) Checks and eggs with a portion of the shell missing may be used when the shell is free of adhering dirt and foreign material and the shell membranes are not ruptured.

(2) Eggs with clean shells which are damaged in candling and/or transfer and have a portion of the shell and shell membranes missing may be used only when the yolk is unbroken and the contents of the egg are not exuding over the outside shell. Such eggs shall be placed in leaker trays and be broken promptly.

(3) Eggs with meat or blood spots may be used if the spots are removed in an acceptable manner.

(d) All loss or inedible eggs shall be placed in a designated container and be handled as required in § 59.504(c). Inedible and loss eggs for the purpose of this section and § 59.522 are defined to include black rots, white rots, mixed rots, green whites, eggs with diffused blood in the albumen or on the yolk, crusted yolks, stuck yolks, developed embryos at or beyond the blood ring state, moldy eggs, sour eggs, any eggs that are adulterated as such term is defined pursuant to this part, and any other filthy and decomposed eggs including the following:

(1) Any egg with visible foreign matter other than removable blood and meat spots in the egg meat.

(2) Any egg with a portion of the shell and shell membranes missing and with egg meat adhering to or in contact with the outside of the shell.

(3) Any egg with dirt or foreign material adhering to the shell and with

cracks in the shell and shell membranes.

(4) Liquid egg recovered from shell egg containers and leaker trays.

(5) Open leakers made in the washing operation.

(6) Any egg which shows evidence that the contents are or have been exuding prior to transfer from the case.

(e) Incubator reject eggs shall not be brought into the official plant.

[36 FR 9814, May 28, 1971, as amended at 40 FR 20059, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.515 Egg cleaning operations.

(a) The following requirements shall be met when washing shell eggs to be presented for breaking:

(1) Shell egg cleaning equipment shall be kept in good repair and shall be cleaned after each day's use or more frequently if necessary.

(2) The temperature of the wash water shall be maintained at 90° F or higher, and shall be at least 20° F warmer than the temperature of the eggs to be washed. These temperatures shall be maintained throughout the cleaning cycle.

(3) An approved cleaning compound shall be used in the wash water. (The use of metered equipment for dispensing the compound into solution is recommended.)

(4) Wash water shall be changed approximately every 4 hours or more often if needed to maintain sanitary conditions and at the end of each shift. Remedial measures shall be taken to prevent excess foaming during the egg washing operation.

(5) Replacement water shall be added continuously to the wash water of washers to maintain a continuous overflow. Rinse water and chlorine sanitizing rinse may be used as part of the replacement water. Iodine sanitizing rinse may not be used as part of the replacement water.

(6) Waste water from the egg washing operation shall be piped directly to drains.

(7) The washing operation shall be continuous and shall be completed as rapidly as possible. Eggs shall not be allowed to stand or soak in water. Immersion-type washers shall not be used.

(8) Prewetting shell eggs prior to washing may be accomplished by spraying a continuous flow of water over the eggs in a manner which permits the water to drain away, or by other methods which may be approved by the Administrator. The temperature of the water shall be the same as prescribed in this section.

(9) Washed eggs shall be spray rinsed with an approved sanitizer of not less than 100 p/m nor more than 200 p/m of available chlorine or its equivalent.

(b) Shell eggs shall not be washed in the breaking room or any room where edible products are processed.

(c) Shell eggs shall be sufficiently dry at time of breaking to prevent contamination or adulteration of the liquid egg product from free moisture on the shell.

[36 FR 9814, May 28, 1971, as amended at 40 FR 20059, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.520 Breaking room facilities.

(a) The breaking room shall have at least 30 foot-candles of light on all working surfaces except that light intensity shall be at least 50 foot-candles at breaking and inspection stations. Lights shall be protected with adequate safety devices.

(b) The surface of the ceiling and walls shall be smooth and made of a water-resistant material.

(c) The floor shall be of water-proof composition, reasonably free from cracks or rough surfaces, sloped for adequate drainage, and the intersections with walls and curbing shall be impervious to water.

(d) Ventilation shall provide for:

(1) A positive flow of outside filtered air through the room;

(2) Air of suitable working temperature during operations.

(e) There shall be provided adequate hand washing facilities which are easily accessible to all breaking personnel, an adequate supply of warm water, clean towels or other facilities for drying hands, odorless soap, and containers for used towels. Hand washing facilities shall be operated by other than hand operated controls.

(f) Containers for packaging egg products are not acceptable as liquid egg buckets.

(g) A suitable container conspicuously identified shall be provided for the disposal of rejected liquid.

(h) Strainers, filters, or centrifugal clarifiers of approved construction shall be provided for the effective removal of shell particles and foreign material, unless specific approval is obtained from the National Supervisor for other mechanical devices.

(i) A separate drawoff room with a filtered positive air ventilation system shall be provided for packaging liquid egg product, except product packaged by automatic, closed packaging systems.

[36 FR 9814, May 28, 1971, as amended at 37 FR 6659, Apr. 1, 1972. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.522 Breaking room operations.

(a) The breaking room shall be kept in a dust-free clean condition and free from flies, insects, and rodents. The floor shall be kept clean and reasonably dry during breaking operations and free of egg meat and shells.

(b) All breaking room personnel shall wash their hands thoroughly with odorless soap and water each time they enter the breaking room and prior to receiving clean equipment after breaking an inedible egg.

(c) Paper towels or tissues shall be used at breaking tables, and shall not be reused. Cloth towels are not permitted.

(d) Breakers shall use a complete set of clean equipment when starting work and after lunch periods. All table equipment shall be rotated with clean equipment every 2½ hours.

(e) Cups shall not be filled to overflowing.

(f) Each shell egg shall be broken in a satisfactory and sanitary manner and inspected for wholesomeness by smelling the shell or the egg meat and by visual examination at the time of breaking. All egg meat shall be reexamined by a person qualified to perform such functions before being emptied into the tank or churn, except as otherwise approved by the National Supervisor.

(g) Shell particles, meat and blood spots, and other foreign material accidentally falling into the cups or trays shall be removed with a spoon or other approved instrument.

(h) Whenever an inedible egg is broken, the affected breaking equipment shall be cleaned and sanitized.

(i) Inedible and loss eggs as defined in § 59.510 apply to this section.

(j) The contents of any cup or other liquid egg receptacle containing one or more inedible or loss eggs shall be rejected.

(k) Contents of drip trays shall be emptied into a cup and smelled carefully before pouring into liquid egg bucket. Drip trays shall be emptied at least once for each 15 dozen eggs or every 15 minutes.

(l) Edible leakers as defined in § 59.510(c)(2) and checks which are liable to be smashed in the breaking operation shall be broken at a separate station by specially trained personnel.

(m) Ingredients and additives used in, or for, processing egg products, shall be handled in a clean and sanitary manner.

(n) Liquid egg containers shall not pass through the candling room.

(o) Test kits shall be provided and used to determine the strength of the sanitizing solution. (See §§ 59.515(a)(9) and 59.552.)

(p) Leaker trays shall be washed and sanitized whenever they become soiled and at the end of each shift.

(q) Shell egg containers whenever dirty shall be cleaned and drained; and shall be cleaned, sanitized, and drained at the end of each shift.

(r) Belt-type shell egg conveyors shall be cleaned and sanitized approximately every 4 hours in addition to continuous cleaning during operation. When not in use, belts shall be raised to permit air drying.

(s) Cups, knives, racks, separators, trays, spoons, liquid egg pails, and other breaking equipment, except for mechanical egg breaking equipment, shall be cleaned and sanitized at least every 2½ hours. This equipment shall be cleaned at the end of each shift and shall be clean and sanitized immediately prior to use.

(t) Utensils and dismantled equipment shall be drained and air dried on approved self-draining metal racks and shall not be nested.

(u) Dump tanks, drawoff tanks, and churns shall be cleaned approximately every 4 hours. All such equipment and all other liquid handling equipment, unless cleaned by acceptable cleaned in-place methods, shall be dismantled and cleaned after each shift. Pasteurization equipment shall be cleaned at the end of each day's use or more often if necessary. All such equipment shall be clean and shall be sanitized prior to placing in use.

(v) Strainers, clarifiers, filtering and other devices used for removal of shell particles and other foreign material shall be cleaned and sanitized each time it is necessary to change such equipment, but at least once each 4 hours of operation.

(w) Breaking room processing equipment shall not be stored on the floor.

(x) Metal containers and lids for other than dried products shall be thoroughly washed, rinsed, sanitized, and drained immediately prior to filling. The foregoing sequence shall not be required if equally effective measures approved by the National Supervisor in writing are followed to assure clean and sanitary containers at the time of filling.

(y) Liquid egg holding vats and containers (including tank trucks) used for transporting liquid eggs shall be cleaned after each use. Such equipment shall be clean and sanitized immediately prior to placing in use.

(z) Tables, shell conveyors, and containers for inedible egg product shall be cleaned at the end of each shift.

(aa) Mechanical egg breaking machines shall be operated at a rate to maintain complete control and accurately inspect and segregate each egg to insure the removal of all loss and inedible eggs. The machine shall be operated in a sanitary manner.

(1) When an inedible egg is encountered on mechanical egg breaking equipment, the inedible egg and contaminated liquid shall be removed. The machine shall be cleaned and sanitized, or contaminated parts replaced with clean ones in the manner prescribed by the Administrator for the type of inedible egg encountered and the kind of egg breaking machine.

(2) Systems for pumping egg liquid directly from egg breaking machines shall be of approved sanitary design and construction, and designed to minimize the entrance of shells into the system and be disconnected when inedible eggs are encountered. The pipelines of the pumping system shall be cleaned or flushed as often as needed to maintain them in a sanitary condition, and they shall be cleaned and sanitized at the end of each shift. Other pumping system equipment shall be cleaned and sanitized approximately every 4 hours or as often as needed to maintain it in a sanitary condition. All liquid egg pumped directly from egg breaking machines shall be reexamined, except as otherwise prescribed and approved by the Administrator.

(3) Mechanical egg breaking equipment shall be clean and sanitized prior to use, and during operations the machines shall be cleaned and sanitized approximately every 4 hours or more often if needed to maintain them in a sanitary condition. This equipment shall be cleaned at the end of each shift.

[36 FR 9814, May 28, 1971, as amended at 37 FR 6659, Apr. 1, 1972; 40 FR 20059, May 8, 1975; 40 FR 20941, May 14, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.530 Liquid egg cooling.

(a) Liquid egg storage rooms, including surface coolers and holding tank rooms, shall be kept clean and free from objectionable odors and condensation. Surface coolers and liquid holding vats containing product shall be kept covered while in use. Liquid cooling units shall be of approved construction and have sufficient capacity to cool all liquid eggs to the temperature requirements specified in this section.

(b) Compliance with temperature requirements applying to liquid eggs shall be considered as satisfactory only if the entire mass of the liquid meets the requirements.

(c) The cooling and temperature requirements for liquid egg products shall be as specified in Table I of this section.

TABLE I—MINIMUM COOLING AND TEMPERATURE REQUIREMENTS FOR LIQUID EGG PRODUCTS

[Unpasteurized product temperature within 2 hours from time of breaking]

Product	Liquid (other than salt product) to be held 8 hours or less	Liquid (other than salt product) to be held in excess of 8 hours	Liquid salt product	Temperature within 2 hours after pasteurization	Temperature within 3 hours after stabilization
Whites (not to be stabilized)	55° F. or lower	45° F. or lower		45° F. or lower	
Whites (to be stabilized)	70° F. or lower	55° F. or lower		55° F. or lower	(1)
All other product (except product with 10 percent or more salt added).	45° F. or lower	40° F. or lower		If to be held 8 hours or less 45° F. or lower. If to be held in excess of 8 hours, 40° F. or lower.	If to be held 8 hours or less, 45° F. or lower. If to be held in excess of 8 hours, 40° F. or lower.
Liquid egg product with 10 percent or more salt added.			If to be held 30 hours or less, 65° F. or lower. If to be held in excess of 30 hours, 45° F. or lower.	65° F. or lower[2].	

[1] Stabilized liquid whites shall be dried as soon as possible after removal of glucose. The storage of stabilized liquid whites shall be limited to that necessary to provide a continuous operation.

[2] The cooling process shall be continued to assure that any salt product to be held in excess of 24 hours is cooled and maintained at 45° F. or lower.

(d) Upon written request and under such conditions as may be prescribed by the National Supervisor, liquid cooling and holding temperatures not otherwise provided for in this section may be approved.

(e) Agitators shall be operated in such a manner as will minimize foaming.

(f) When ice is used as an emergency refrigerant by being placed directly into the egg meat, the source of the ice must be certified by the local or State board of health. Such liquid shall be dried. All ice shall be handled in a sanitary manner.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977 and at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 745, Jan. 7, 1982]

§ 59.532 Liquid egg holding.

(a) Tanks and vats used for holding liquid eggs shall be of approved construction, fitted with covers, and located in rooms maintained in a sanitary condition. Notwithstanding the foregoing, tanks designed for installation partially outside of a room or building are acceptable, providing all openings into the tanks terminate in the processing room.

(b) Liquid egg holding tanks or vats shall be equipped with suitable thermometers and agitators.

(c) Inlets to holding tanks or vats shall be such as to prevent excessive foaming.

(d) Gaskets, if used, shall be of a sanitary type.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and amended at 45 FR 23641, Apr. 8, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 59.534 Freezing facilities.

(a) Freezing rooms, either on or off the premises, shall be capable of freezing all liquid egg products in accordance with the freezing requirements as set forth in § 59.536. Use of off-premise freezing facilities is permitted only when prior approval in writing from the National Supervisor is on file.

(b) Adequate air circulation shall be provided in all freezing rooms.

§ 59.536 Freezing operations.

(a) Freezing rooms shall be kept clean and free from objectionable odors.

(b) Requirements. (1) Nonpasteurized egg products which are to be frozen shall be solidly frozen or reduced to a temperature of 10° F or lower within 60 hours from time of breaking.

(2) Pasteurized egg products which are to be frozen shall be solidly frozen or reduced to a temperature of 10° F or lower within 60 hours from time of pasteurization.

(3) The temperature of the products not solidly frozen shall be taken at the center of the container to determine compliance with this section.

(c) Containers shall be stacked so as to permit circulation of air around the containers.

(d) The outside of liquid egg containers shall be clean and free from evidence of liquid egg.

(e) Frozen egg products shall be examined by organoleptic examination after freezing to determine their fitness for human food. Any such products which are found to be unfit for human food shall be denatured and any official identification mark which appears on any container thereof shall be removed or completely obliterated and the containers identified as required in §§ 59.840 and 59.860.

§ 59.538 Defrosting facilities.

(a) Approved metal defrosting tanks or vats constructed so as to permit ready and thorough cleaning shall be provided.

(b) Frozen egg crushers, when used, shall be of approved metal construction. The crushers shall permit ready and thorough cleaning and the bearings and housing shall be fabricated in such a manner as to prevent contamination of the egg products.

(c) Service tables shall be of approved metal construction without open seams and the surfaces shall be smooth to allow thorough cleaning.

§ 59.539 Defrosting operations.

(a) Frozen egg products which are to be defrosted shall be defrosted in a sanitary manner.

(b) Each container of frozen eggs shall be checked for condition and odor just prior to being emptied into the crusher or receiving tank. Frozen eggs which have objectionable odors and are unfit for human food (e.g., sour, musty, fermented, or decomposed odors) shall be denatured.

(c) Frozen whites to be used in the production of dried albumen may be defrosted at room temperature. All other whites shall be defrosted in accordance with paragraph (d) of this section.

(d) Frozen whole eggs, whites and yolks, and yolks may be tempered or partially defrosted for not to exceed 48 hours at a room temperature no higher than 40° F. or not to exceed 24 hours at a room temperature above 40° F.: *Provided*, That no portion of the defrosted liquid shall exceed 50° F. while in or out of the container.

(1) Frozen eggs packed in metal containers may be placed in running cold tap water without submersion to speed defrosting.

(2) The defrosted liquid shall be held at 40° F. or less, except for product to be pasteurized or stabilized by glucose removal as provided in § 59.530. Defrosted liquid shall not be held more than 16 hours prior to processing or drying.

(e) Sanitary methods shall be used in handling containers and removing egg product.

(f) Crushers and other equipment used in defrosting operations shall be dismantled at the end of each shift and shall be washed, rinsed, and sanitized.

(1) Where crushers are used intermittently, they shall be flushed after each use and again before being placed in use.

(2) Floors and work tables shall be kept clean.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 59.540 Spray process drying facilities.

(a) Driers shall be of a continuous discharge type and so constructed and equipped to prevent an excess accumulation of powder in the drier, bags, and powder conveyors.

(b) Driers shall be of approved construction and materials, with welded seams, and the surfaces shall be smooth to allow for thorough cleaning.

(c) Driers shall be equipped with approved air intake filters.

(d) Air shall be drawn into the drier from sources free from foul odors, dust, and dirt.

(e) Indirect heat or the use of an approved premixing device or other approved devices for securing complete combustion in direct-fired units is required. A premix-type burner, if used, shall be equipped with approved air filters at blower intake.

(f) High-pressure pump heads and lines shall be of stainless steel construction or equivalent which will allow for thorough cleaning.

(g) Preheating units, if used, shall be of stainless steel construction, or equivalent which will allow thorough cleaning.

(h) Powder conveying equipment shall be so constructed as will facilitate thorough cleaning.

(i) Sifters shall be constructed of an approved metal or metal lined interior. The sifting screens and frames shall be of an approved metal construction. Sifters shall be so constructed that accumulations of large particles or lumps of dried eggs can be removed continuously while the sifters are in operation.

[36 FR 9814, May 28, 1971; 36 FR 10841, June 4, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.542 Spray process drying operations.

(a) The drying room shall be kept in a clean condition and free of flies, insects, and rodents.

(b) Low-pressure lines, high-pressure lines, high- and low-pressure pumps, homogenizers, and pasteurizers shall be cleaned by acceptable inplace cleaning methods or dismantled and cleaned after use or as necessary when operations have been interrupted.

(1) Spray nozzles, orifices, cores, or whizzers shall be cleaned immediately after cessation of drying operations.

(2) Equipment shall be sanitized within 2 hours prior to resuming operations.

(c) Drying units, conveyors, sifters, and packaging systems shall be cleaned whenever wet powder is encountered or when other conditions occur which would adversely affect the product. The complete drying unit, including sifters, conveyors, and powder coolers shall be either wet washed or dry cleaned. A combination of wet washing and dry cleaning of the complete drying unit shall not be permitted unless that segment of the unit to be cleaned in a different manner is completely detached or disconnected from the balance of the drying unit.

(1) Sifters and conveyors used for other than dried albumen shall be cleared of powder when such equipment is not to be used for a period of 24 hours or longer.

(2) Collector bags shall be cleaned as often as needed to maintain them in an acceptable clean condition.

(d) Powder shall be sifted and the screen shall be replaced whenever torn or worn.

(e) Accumulations of large particles or lumps of dried eggs shall be removed from the sifter screens continuously.

(f) All openings into the drier around ports, augers, high-pressure lines, etc., shall be closed to the extent possible during the drying operation to prevent entrance of nonfiltered air.

(g) Openings into the drying unit shall be closed when the drier is not in use, except when the drying unit has been completely emptied of powder and wet washed. This includes, but is not limited to, openings, for the air intake and exhaust systems, nozzle openings, ports, augers, etc.

§ 59.544 Spray process powder; definitions and requirements.

(a) Definition of product:

(1) "Primary powder" is that powder which is continuously removed from the primary or main drying chamber while the drying unit is in operation.

(2) "Secondary powder" is that powder which is continuously and automatically removed from the secondary chamber and/or bag collector

chamber while the drying unit is in operation.

(3) "Sweep-down powder" is that powder which is recovered in the brush-down process from the primary or secondary chamber and conveyors.

(4) "Brush bag powder" is that powder which is brushed from the collector bags.

(b) Secondary powder shall be continuously discharged and mixed with the primary powder by methods approved by the Administrator.

(c) Edible dried egg products, including edible ingredients which may be added to such dried products, may be dry-blended: *Provided*, That the blending is done in a room as provided in § 59.548 or in a closed blending system and in accordance with clean, sanitary practices and such procedures as may be prescribed by the Administrator.

(d) Any edible dried egg powder may be reconstituted, repasteurized, and redried when accomplished in a clean, sanitary manner and in accordance with such procedures as may be prescribed by the Administrator.

(e) Edible dried egg powder obtained from the sweep down, screenings, brush bag (except for brush bag powder from albumen driers), and improperly dried or scorched powder shall be reconstituted, repasteurized, and redried.

(f) Approximately the first and last 175 pounds of powder from the main driers for each continuous operation shall be checked for improperly dried or scorched powder.

§ 59.546 Albumen flake process drying facilities.

(a) Drying facilities shall be constructed in such a manner as will allow thorough cleaning and be equipped with approved intake filters.

(b) The intake air source shall be free from foul odors, dust, and dirt.

(c) Premix-type burners, if used, shall be equipped with approved air filters at blower intake.

(d) Fermentation tanks, drying pans, trays or belts, scrapers, curing racks, and equipment used for pulverizing pan dried albumen shall be constructed of approved materials in such a manner as will permit thorough cleaning.

(e) Sifting screens shall be constructed of approved materials in such a manner as will permit thorough cleaning and be in accordance with the specification for the type of albumen produced.

§ 59.547 Albumen flake process drying operations.

(a) The fermentation, drying, and curing rooms shall be kept in a dust-free clean condition and free of flies, insects, and rodents.

(b) Drying units, racks, and trucks shall be kept in a clean and sanitary condition.

(c) Drying pans, trays, belts, scrapers, or curing racks, if used, shall be kept in a clean condition.

(d) Oils and waxes used in oiling drying pans or trays shall be of edible quality.

(e) Equipment used for pulverizing or sifting dried albumen shall be kept in a clean condition.

§ 59.548 Drying, blending, packaging, and heat treatment rooms and facilities.

(a) General: Processing rooms shall be maintained in a clean condition and free of flies, insects, and rodents. The drying, blending, and packaging rooms shall be well-lighted and have ceilings and walls of a tile surface, enamel paint, or other water-resistant material.

(1) The floors shall be free from cracks or rough surfaces where water or dirt could accumulate.

(2) The intersections of the walls and floors shall be impervious to water and the floor shall be sloped for adequate drainage.

(3) Metal storage racks or cabinets shall be provided for storing of tools and accessories.

(b) Dry blending of edible egg products, including adding edible dry ingredients, and/or packaging of spray-dried products shall be done in a room separate from other processing operations. Dry blending may also be done in other areas: *Provided*, That it is accomplished in an approved closed blending system.

(1) Blending and packaging rooms for pasteurized products shall be provided with an adequate positive flow of approved outside filtered air.

(2) Blending and packaging equipment and accessories which come into contact with the dried product shall be of an approved construction without open seams and of materials that can be kept clean and which will have no deleterious effect on the product. Service tables shall be of approved metal construction without open seams and surfaces shall be smooth to permit thorough cleaning.

(3) Package liners shall be inserted in a sanitary manner, and equipment and supplies used in the operation shall be kept off the floor.

(4) Utensils used in packaging dried eggs shall be kept clean at all times and whenever contaminated shall be cleaned and sanitized. When not in use, scoops, brushes, tampers, and other similar equipment shall be stored in sanitary cabinets or racks provided for this purpose.

(5) Automatic container fillers shall be of a type that will accurately fill given quantities of product into the containers. Scales shall be provided to accurately check the weight of the filled containers. All equipment used in mechanically packaging dried egg products shall be vacuum cleaned daily.

(c) The heat treatment room shall be of an approved construction and be maintained in a clean condition. The room or rooms shall be of sufficient size so that product to be heat treated can be so spaced to assure adequate heat and air circulation. The room shall have an adequate heat supply and a continuous air circulation system.

§ 59.549 Dried egg storage.

Dried egg storage shall be sufficient to adequately handle the production of the plant and shall be kept clean, dry, and free from objectionable odors.

§ 59.550 Washing and sanitizing room or area facilities.

(a) This room or area shall be well lighted, and of sufficient size to permit operators to properly wash and sanitize all equipment at the rate required by the size of the operation. Adequate exhaust shall be provided to assure the prompt removal of odors and vapors and the air flow shall be away from the breaking room. If the washing and sanitizing is not done in a separate room, it shall be in an area well segregated from the breaking areas and be well ventilated with air movement directed away from the breaking operations so that odors and vapors do not permeate the breaking areas.

(b) Ceiling and walls shall have a surface of tile, enamel paint, or other water-resistant material.

(c) Floors shall be adequately sloped for proper drainage, be free from cracks or rough surfaces where water and dirt could accumulate and the intersections with walls shall be impervious to water.

§ 59.552 Cleaning and sanitizing requirements.

(a) *Cleaning.* (1) Equipment used in egg processing operations which comes in contact with liquid eggs or exposed edible products shall be cleaned to eliminate organic matter and inorganic residues. This may be accomplished by any sanitary means but it is preferable (unless high pressure cleaning is used) to flush soiled equipment with clean cool water, dismantle it when possible, wash by brushing with warm water containing a detergent and followed by rinsing with water. It is essential to have the equipment surfaces thoroughly clean if effective sanitizing is to be attained.

(2) Equipment shall be cleaned with such frequency as is specified elsewhere under the sanitary requirements for the particular kind of operation and type of equipment involved.

(3) C.I.P. (cleaned-in-place) shall be considered to be acceptable only if the methods and procedures used accomplish cleaning equivalent to that obtained by thorough manual washing and sanitizing of dismantled equipment. The Administrator shall determine the acceptability of C.I.P. cleaning procedures and may require bacteriological tests and periodic dismantling of equipment as a basis for such determination.

(b) *Sanitizing.* (1) Sanitizing shall be accomplished by such methods as approved by the Administrator.

(i) Chemicals and compounds used for sanitizing shall have approval by the Administrator prior to use.

(ii) Sanitizing by use of hypochlorites or other approved sanitizing solutions shall be accomplished by subjecting the equipment surfaces to such sanitizing solution containing a maximum strength of 200 p.p.m. of available chlorine or its equivalent. These solutions shall be changed whenever the strength drops to 100 p.p.m. or less of available chlorine or its equivalent.

(2) Shell eggs which have been sanitized and equipment which comes in contact with edible products shall be rinsed with clean water after sanitizing if other than hypochlorites are used as sanitizing agents unless otherwise approved by the Administrator.

§ 59.560 Health and hygiene of personnel.

(a) Personnel facilities, including toilets, lavatories, lockers, and dressing rooms shall be adequate and meet State and local requirements for food processing plants.

(b) Toilets and dressing rooms shall be kept clean and adequately ventilated to eliminate odors and kept adequately supplied with soap, towels, and tissues. Toilet rooms shall be ventilated to the outside of the building.

(c) No person affected with any communicable disease in a transmissible stage or a carrier of such disease, or with boils, sores, infected wounds, or wearing cloth bandages on hands shall be permitted to come in contact with eggs in any form or with equipment used to process such eggs.

(d) Workers coming into contact with liquid or dried eggs, containers, or equipment shall wear clean outer uniforms.

(e) Plant personnel handling exposed edible product shall wash their hands before beginning work, and upon returning to work after leaving the work room.

(f) Expectorating, or other unsanitary practices, shall not be permitted.

(g) Use of tobacco in any form or the wearing of jewelry, nail polish, or perfumes shall not be permitted in any area where edible products are exposed.

(h) Hair nets or caps shall be properly worn by all persons in breaking and packaging rooms.

§ 59.570 Pasteurization of liquid eggs.

(a) Pasteurization facilities: The facilities for pasteurization of egg products shall be adequate and of approved construction so that all products will be processed as provided for in this section. Pasteurization equipment for liquid egg product shall include a holding tube, an automatic flow diversion valve, thermal controls, and recording devices to determine compliance for pasteurization as set forth in paragraph (b) of this section. The temperature of the heated liquid egg product shall be continuously and automatically recorded during the process.

(b) Pasteurizing operations: Every particle of all products must be rapidly heated to the required temperature and held at that temperature for the required minimum holding time as set forth in this section. The temperatures and holding times listed in Table I of this section are minimum. The product may be heated to higher temperatures and held for longer periods of time. Pasteurization procedures shall assure complete pasteurization, and holding, packaging, facilities and operations shall be such as to prevent contamination of the product.

TABLE I—PASTEURIZATION REQUIREMENTS [1]

Liquid egg product	Minimum temperature requirements (°F.)	Minimum holding time requirements (*Minutes*)
Albumen (without use of chemicals)	134	3.5
	132	6.2
Whole egg	140	3.5
Whole egg blends (less than 2 percent added nonegg ingredients)	142	3.5
	140	6.2
Fortified whole egg and blends (24-38 percent egg solids, 2-12 percent added nonegg ingredients)	144	3.5
	142	6.2
Salt whole egg (with 2 percent or more salt added)	146	3.5
	144	6.2
Sugar whole egg (2-12 percent sugar added)	142	3.5
	140	6.2
Plain yolk	142	3.5

TABLE I—PASTEURIZATION REQUIREMENTS [1]—Continued

Liquid egg product	Minimum temperature requirements (°F.)	Minimum holding time requirements (*Minutes*)
	140	6.2
Sugar yolk (2 percent or more sugar added)	146	3.5
	144	6.2
Salt yolk (2–12 percent salt added)	146	3.5
	144	6.2

[1] Pasteurization of egg products not listed in this table shall be in accordance with paragraph (c) of this section.

(c) Other methods of pasteurization may be approved by the Administrator when such treatments give equivalent effects to those specified in paragraph (b) of this section for those products or other products and results in a salmonella negative product.

§ 59.575 Heat treatment of dried whites.

Heat treatment of dried whites is an approved method for pasteurization and the product shall be heated throughout for such times and at such temperatures as will result in salmonella negative product.

(a) The product to be heat treated shall be held in the heat treatment room in closed containers and shall be spaced to assure adequate heat penetration and air circulation. Each container shall be identified as to type of product (spray or pan dried) and with the lot number or production code number.

(b) The minimum requirements for heat treatment of spray or pan dried albumen shall be as follows:

(1) Spray dried albumen shall be heated throughout to a temperature not less than 130° F and held continuously at such temperature not less than 7 days and until it is salmonella negative.

(2) Pan dried albumen shall be heated throughout to a temperature of not less than 125° F and held continuously at such temperature not less than 5 days and until it is salmonella negative.

(3) Methods of heat treatment of spray dried or pan dried albumen, other than listed in paragraphs (b) (1) and (2) of this section, may be approved by the Administrator upon receipt of satisfactory evidence that such methods will result in salmonella negative products.

(c) Dried whites which have been heat treated in the dried form shall be sampled and analyzed for the presence of salmonellae as required in § 59.580.

(d) Records shall be maintained for 1 year of the following:

(1) Types of product;

(2) Lot number;

(3) Heat treatment room temperatures;

(4) Product temperatures;

(5) Length of time product is held in heat treatment room;

(6) Results of all laboratory analyses made for the presence of salmonellae.

(e) Dried whites processed and tested in accordance with all of the applicable requirements specified in this section may be labeled "Pasteurized."

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 745, Jan. 7, 1982]

LABORATORY

§ 59.580 Laboratory tests and analyses.

The official plant, at their expense, shall make tests and analyses to determine compliance with the Act and the regulations.

(a) Samples shall be drawn from liquid, frozen or dried egg products and analyzed for compliance with the standards of identity (if any) and with the product label.

(b) To assure adequate pasteurization, pasteurized egg products and heat treated dried egg whites shall be sampled and analyzed for the presence of salmonellae in accordance with such sequence, frequency, and approved laboratory methods as prescribed by the Administrator. The samples of pasteurized egg products and heat treated dried egg whites shall be drawn from the final packaged form.

(c) Results of the analyses and tests shall be made available to the inspector.

(d) USDA will draw confirmation samples and submit them to a USDA laboratory at USDA's expense to determine the adequacy of the plant's tests and analyses.

EXEMPTED EGG PRODUCTS PLANTS

§ 59.600 Application for exemption.

An application for exemption from the continuous inspection requirements must be made in writing on forms approved by the Administrator and filed with the inspection service.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 745, Jan. 7, 1982]

§ 59.610 Criteria for exemption.

Any plant processing egg products may qualify for exemption where:

(a) The facility, operating procedures and practices, and sanitation meet the standards required for official egg products plants as are contained in §§ 59.500 through 59.580, and such exempted plants shall thereafter be subject to other provisions applicable to official plants which shall include maintaining records such as pasteurization temperatures and holding times, laboratory records, egg products testing procedures, and making all such records available for review.

(b) The eggs received or used in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards for U.S. Consumer Grade B shell eggs.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 745, Jan. 7, 1982]

§ 59.620 Authority of applicant.

Proof of authority of any person applying for exemption from continuous inspection may be required by the Administrator.

§ 59.630 Filing of application.

An application for exemption shall be regarded as filed only when it has been filled in completely and signed by the applicant and has been received in the office of the inspection service.

§ 59.640 Application for exemption; approval.

Any person desiring to process egg products pursuant to the exemption provision of the Act and these regulations must receive approval of such plant, facilities, and operating procedures as an exempted plant. An application for exemption shall be according to the following:

(a) *Initial survey.* When an application for exemption of a plant has been filed, a Supervisory Egg Products Inspector will make a survey and inspection of the premises and plant to determine if the facilities, methods of operation, and eggs received or used therein are suitable and adequate in accordance with:

(1) Section 59.610; and

(2) Such other administrative instructions as may be issued, from time to time, by the Service and which are in effect at the time of the aforesaid survey and inspection.

(b) *Final survey and exemption approval.* Upon notification by the applicant for exemption that all the criteria for exemption required in § 59.610 are in effect and an initial survey has been performed, the applicant shall:

(1) Submit drawings and specifications in accordance with the same requirements as official plants as specified in § 59.146(b);

(2) Submit labels for approval as specified in § 59.680;

(3) Request a final survey be made by a Supervisory Egg Products Inspector to determine if the plant is constructed and the facilities are installed in accordance with the approved drawings and these regulations.

(c) The plant will be approved for exemption only when all the requirements of this section have been met.

[36 FR 9814, May 28, 1971; 36 FR 10841, June 4, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.650 Exempted plant registration number.

Each plant processing egg products which receives the Administrator's approval for exemption shall be assigned an "Exempted Registration Number" at the time the exemption approval is provided.

§ 59.660 Inspection of exempted plants.

Duly authorized representatives of the Administrator shall make such periodic inspections of exempted plants and records thereof as the Administrator may require to ascertain if any of the provisions of the Act or these regulations applicable to exempted plants have been violated. Such representatives shall be afforded access, at any reasonable time, to any plant or place of business subject to inspection under the provisions of the Act.

§ 59.670 Termination of exemption.

The Administrator may suspend or terminate any exemption if the criteria for exemption required in § 59.610 are not being met. In addition, if any violation has been committed, the applicable penalties provided in this part may be enforced as provided in the Act.

§ 59.680 Approval of labeling for egg products processed in exempted egg products processing plants.

(a) The labels for egg products which are capable for use as human food shall be submitted to the Administrator for approval. The submission and approval shall be the same as for official plants as required in § 59.411 except the labels or containers shall not bear official identification.

(b) The label or container shall legibly and conspicuously bear the statement: "Exempted—E.P.I.A. Registration No. ——." The registration number shall be that assigned to the exempted plant as provided in § 59.650.

REGISTRATION OF SHELL EGG HANDLERS

§ 59.690 Persons required to register.

Shell egg handlers, except for producer-packers with an annual egg production from a flock of 3,000 hens or less, who grade and pack eggs for the ultimate consumer (e.g., retail stores, households, restaurants, institutions, food manufacturers, etc.), and hatcheries, are required to register with the U.S. Department of Agriculture by furnishing their name, place of business, and such other information as is requested on forms provided by and/or available from the U.S. Department of Agriculture. Completed forms shall be sent to the addressee indicated on the form. Persons as those listed above who are establishing a business will be required to register before they start operations.

[40 FR 20059, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

INSPECTION AND DISPOSITION OF RESTRICTED EGGS

§ 59.700 Prohibition on disposition of restricted eggs.

(a) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation in any business in commerce any restricted eggs, except as authorized in §§ 59.100 and 59.720.

(b) No egg handler shall possess any restricted eggs, except as authorized in §§ 59.100 and 59.720.

(c) No egg handler shall use any restricted eggs in the preparation of human food, except as provided in §§ 59.100 and 59.720.

§ 59.720 Disposition of restricted eggs.

(a) Eggs classified as checks, dirties, incubator rejects, inedibles, leakers, or loss shall be disposed of by one of the following methods at point and time of segregation:

(1) Checks and dirties may be shipped directly or indirectly to an official egg products plant for segregation and processing when labeled in accordance with § 59.800. Inedibles and loss eggs shall not be intermingled in the same containers with checks and dirties.

(2) By destruction in a manner approved by the Administrator, such as crushing and denaturing or decharacterizing in accordance with § 59.504(c) and identifying the product as "Inedible Egg Product—Not To Be Used As Human Food."

(3) Processing for industrial use or for animal food. Such product shall be denatured or decharacterized in accordance with § 59.504(c) and identified as provided in §§ 59.840 and 59.860, or handled in accordance with other procedures approved by the Ad-

ministrator. Notwithstanding the foregoing, product which was produced under official supervision and transported for industrial use or animal food need not be denatured or decharacterized if it is shipped under Government seal and received by an inspector or grader as defined in this part.

(4) By coloring the shells of loss and inedible eggs with a sufficient amount of FD&C color to give a distinct appearance, or applying a substance that will penetrate the shell and decharacterize the egg meat. Except that, lots of eggs containing significant percentages of blood spots or meat spots, but no other types of loss or inedible eggs may be shipped directly to official egg products plants, provided they are conspicuously labeled with the name and address of the shipper and the wording "Spots—For Processing Only In Official Egg Products Plants."

(5) Incubator rejects shall be broken or crushed and denatured or decharacterized in accordance with § 59.504(c) and labeled as required in §§ 59.840 and 59.860.

(b) Eggs which are packed for consumer use (e.g., households, restaurants, institutions, food manufacturers, etc.) and which have been found to exceed the tolerance for restricted eggs permitted in the official standards for U.S. Consumer Grade B, shall be identified as required in §§ 59.800 and 59.860 and shall be shipped directly or indirectly:

(1) To an official egg products plant for proper segregation and processing; or

(2) Be regraded so that they comply with the official standards; or

(3) For use as other than human food.

(c) Records shall be maintained as provided in § 59.200 to assure proper disposition.

[36 FR 9814, May 28, 1971; 36 FR 10841, June 4, 1971; 37 FR 6659, Apr. 1, 1972; 40 FR 20059, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 745, Jan. 7, 1982]

§ 59.760 Inspection of egg handlers.

Duly authorized representatives of the Administrator shall make such periodic inspections of egg handlers and their records as the Administrator may require to ascertain if any of the provisions of the Act or these regulations applicable to such egg handlers have been violated. Such representatives shall be afforded access, at any reasonable time, to any place of business or plant subject to inspection under the provisions of the Act.

IDENTIFICATION OF RESTRICTED EGGS OR EGG PRODUCTS NOT INTENDED FOR HUMAN CONSUMPTION

§ 59.800 Identification of restricted eggs.

The shipping container of restricted eggs shall be determined to be satisfactorily identified if such container bears the packer's name and address, the quality of the eggs in the container (e.g., dirties, checks, inedibles, or loss), or the statement "Restricted Eggs—For Processing Only In An Official USDA Egg Products Plant," for checks or dirties, or "Restricted Eggs—Not To Be Used As Human Food," for inedibles, loss, and incubator rejects, or "Restricted Eggs—To Be Regraded" for graded eggs which contain more restricted eggs than are allowed in the official standards for U.S. Consumer Grade B shell eggs. The size of the letters of the identification wording shall be as required in § 59.860. When eggs are packed in immediate containers, e.g., cartons, sleeve packs, overwrapped 2½ or 3 dozen packs, etc., for sale to household consumers under the exemptions provided for in § 59.100(c), (d), or (f), they shall be deemed to be satisfactorily identified in accordance with the requirements of this part if such immediate containers bear the packer's name and address and the quality of the eggs. Alternatively, a point of sale sign may be displayed showing the above information.

[40 FR 20060, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.801 Nest run or current receipt eggs.

Eggs which are merchandised as they come from the production facilities without washing, grading, or sizing are exempt from the labeling provisions in § 59.800. However, when such eggs are packed and sold to consumers, they may not contain more loss and leakers than allowed in the official standards for U.S. Consumer Grade B shell eggs.

[40 FR 20060, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.840 Identification of inedible, unwholesome, or adulterated egg products.

All inedible, unwholesome, or adulterated egg products shall be identified with the name and address of the processor, the words "Inedible Egg Products—Not To Be Used as Human Food."

§ 59.860 Identification wording.

The letters of the identification wording shall be legible and conspicuous.

[37 FR 6659, Apr. 1, 1972. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

IMPORTS

§ 59.900 Requirements for importation of egg products or restricted eggs into the United States.

(a) Egg products and restricted eggs may be imported into the United States from any foreign country only in accordance with these regulations. The term "United States" means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and the District of Columbia. The importation of any egg or egg product in violation of the regulations of this part is prohibited.

(b) All such imported articles shall upon entry into the United States be deemed and treated as domestic articles and be subject to the other provisions of the Act, these regulations, and other Federal or State requirements.

§ 59.905 Importation of restricted eggs or eggs containing more restricted eggs than permitted in the official standards for U.S. Consumer Grade B.

(a) No containers of restricted eggs other than checks or dirties shall be imported into the United States. The shipping containers of such eggs shall be identified with the name, address, and country of origin of the exporter, and the quality of the eggs (e.g., checks, or dirties) preceded by the word "Imported" or the statement "Imported Restricted Eggs—For Processing Only In An Official USDA Plant," or "Restricted Eggs—Not To Be Used As Human Food." Such identification shall be legible and conspicuous.

(b) Eggs which are imported for use as human food and upon entry are found to contain more restricted eggs than permitted in the official standards for U.S. Consumer Grade B, shall be refused entry and returned to the importing country or be conspicuously and legibly identified as "Imported Restricted Eggs" and be sent directly under official seal: (1) To a place where they may be regraded to comply with the official U.S. standards for consumer grades; (2) to an official USDA egg products processing plant; or (3) to be used as other than human food.

[36 FR 9814, May 28, 1971, as amended at 37 FR 6659, Apr. 1, 1972. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.910 Eligibility of foreign countries for importation of egg products into the United States.

(a) Whenever it is determined by the Administrator that the system of egg products inspection maintained by any foreign country is such that the egg products produced in such country are processed, labeled, and packaged in accordance with, and otherwise comply with, the standards of the Act and these regulations including, but not limited to the same sanitary, processing, facility requirements, and continuous Government inspection as required in §§ 59.500 through 59.580 applicable to inspected articles produced within the United States, notice of that fact will be given by listing the name of such foreign country in paragraph (b) of this section. Thereafter, egg products from the countries so listed shall be eligible, subject to the provisions of this part and other applicable laws and regulations, for importation into the United States. Such products to be imported into the United States from these foreign countries must meet, to the extent applicable, the same standards and requirements that apply to comparable domestic products as set forth in these regulations. Egg products from foreign countries not listed herein are not eligible for importation into the United States, except as provided by § 59.960. In determining if the inspection system of a foreign country is the equivalent of the system maintained by the United States, the Administrator shall review the inspection regulations of the foreign country and make a survey to determine the manner in which the inspection system is administered within the foreign country. The survey of the foreign inspection system may be expedited by payment by the interested Government agency in the foreign country of the travel expenses incurred in making the survey. After approval of the inspection system of a foreign country, the Administrator may, as often and to the extent deemed necessary, authorize representatives of the Department to review the system to determine that it is maintained in such a manner as to be the equivalent of the system maintained by the United States.

(b) It has been determined that each of the following foreign countries maintain an egg products inspection system that is the equivalent of the system maintained by the United States: Canada.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and amended at 42 FR 48327, Sept. 23, 1977. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 59.915 Foreign inspection certificate required.

(a) *Egg products.* Except as provided in § 59.960, each consignment of egg products, as defined in this part, shall be accompanied by a foreign egg products inspection certificate, which, unless otherwise approved by the Administrator, contains the following information:

(1) Country exporting product;

(2) City and date where issued;

(3) Kind of product, number of containers, and weight;

(4) Production date(s) of product;

(5) Identification marks on containers;

(6) Name and address of exporter;

(7) Name, address, and plant number of processing plant;

(8) Name and address of importer;

(9) A certification that the egg products were produced under the approved regulations, requirements, and continuous Government inspection of the exporting country and;

(10) Name (including signature) and official title of person authorized to issue inspection certificates for egg products exported to the United States.

(b) *Shell eggs.* Except as otherwise provided in § 59.960, each consignment of shell eggs shall be accompanied by a foreign inspection certificate, which, unless otherwise approved by the Administrator contains the following information:

(1) Country exporting product;

(2) City and date where issued;

(3) Quality or description of eggs;

(4) Number of cases and total quantity;

(5) Identification marks on containers;

(6) Name and address of exporter;

(7) Name and address of importer;

(8) A certification that the quality or description of the shell eggs is true and accurate and;

(9) Name (including signature) and title of person authorized to issue inspection certificates for shell eggs exported to the United States.

§ 59.920 Importer to make application for inspection of imported eggs and egg products.

Each person importing any eggs or egg products shall make application for inspection upon PY Form 222-Import Request, Eggs and Egg Products, to the Chief, Poultry Grading Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, or to the Poultry Division, Poultry Grading Branch office at the port where the product is to be offered for importation. Application shall be made as long as possible prior to the arrival of each consignment of product, except in the case of product exempted from inspection by § 59.960. Each application shall state the approximate date of product arrival in the United States, the name of the ship or other carrier, the country from which the product was shipped, the destination, the quantity and class of product, whether fresh, frozen, or dried, and the point of first arrival in the United States.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

§ 59.925 Inspection of imported eggs and egg products.

(a) Except as provided in § 59.960, eggs and egg products offered for importation from any foreign country shall be subject to inspection in accordance with established inspection procedures, including the examination of the labeling information on the containers, by an inspector before the product shall be admitted into the United States. Importers will be advised of the point where inspection will be made, and in case of small shipments (less than carload lots), the importer may be required to move the product to the location of the nearest inspector.

(b) Inspectors may take samples, without cost to the United States, of any product offered for importation which is subject to analysis or quality determination, except that samples shall not be taken of any products offered for importation under § 59.960, unless there is reason for suspecting the presence therein of a substance in violation of that section.

§ 59.930 Imported eggs and egg products; retention in customs custody; delivery under bond; movement prior to inspection; sealing; handling; facilities, and assistance.

(a) No eggs or egg products required by this part to be inspected shall be released from customs custody prior to required inspections, but such product may be delivered to the consignee, or his agent, prior to inspection if the consignee shall furnish a bond, in the form prescribed by the Secretary of the Treasury, conditioned that the product shall be returned, if demanded, to the collector of the port where the same is offered for clearance through customs.

(b) Notwithstanding paragraph (a) of this section, no product required by this part to be inspected shall be moved prior to inspection from the port of arrival where first unloaded, and if arriving by water from the wharf where first unloaded at such port, to any place other than the place designated in accordance with this part as the place where the same shall be inspected; and no product shall be conveyed in any manner other than in compliance with this part.

(c) Means of conveyance or packages in which any product is moved in accordance with this part, prior to inspection, from the port or wharf where first unloaded in the United States, shall be sealed with special import seals of the U.S. Department of Agriculture or otherwise identified as provided herein, unless already sealed with customs or consular seals in accordance with the customs regulations. Such special seals shall be affixed by an inspector or, if there is no inspector at such port, by a customs officer. In lieu of sealing packages, the carrier or importer may furnish and attach to each package of product a warning notice on bright yellow paper, not less than 5 x 8 inches in size, containing the following legend in black type of a conspicuous size:

(Name of Truck Line or Carrier)

NOTICE

This package of ——— must be delivered intact to an inspector of the Poultry Division, U.S. Department of Agriculture.

WARNING

Failure to comply with these instructions will result in penalty action being taken against the holder of the customs entry bond.

If the product is found to be acceptable upon inspection, the product may be released to the consignee, or his agent, and this warning notice defaced.

(d) No person shall affix, break, alter, deface, mutilate, remove, or destroy any special import seal of the

U.S. Department of Agriculture, except customs officers or inspectors, or as provided in paragraph (f) of this section.

(e) No product shall be removed from any means of conveyance or package sealed with a special import seal of the U.S. Department of Agriculture, except under the supervision of an inspector or a customs officer, or as provided in paragraph (f) of this section.

(f) In case of a wreck or similar extraordinary emergency, the special import seal of the U.S. Department of Agriculture on a car, truck, or other means of conveyance may be broken by the carrier and, if necessary, the articles may be reloaded into another means of conveyance for transportation to destination. In all such cases, the carrier shall immediately report the facts by telegraph to the Chief of the Grading Branch.

(g) The consignee or his agent shall provide such facilities and assistance as the inspector may require for the inspection and handling and marking of products offered for importation.

[36 FR 9814, May 28, 1971, as amended at 37 FR 6660, Apr. 1, 1972; 40 FR 20060, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and further amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46070, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

§ 59.935 Means of conveyance and equipment used in handling eggs and egg products to be maintained in sanitary condition.

Compartments of boats, railroad cars, and other means of conveyance transporting any product to the United States, and all chutes, platforms, racks, tables, tools, utensils, and all other devices used in moving and handling such product offered for importation, shall be maintained in a sanitary condition.

§ 59.940 Marking of egg products offered for importation.

Egg products which, upon inspection, are found to be acceptable for importation into the United States, and are properly labeled and bear the inspection mark of the country of origin, need no further identification. However, each shipping container of egg products rejected shall be marked "U.S. Refused Entry."

[40 FR 20060, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.945 Foreign eggs and egg products offered for importation; reporting of findings to customs; handling of products refused entry.

(a) Inspectors shall report their findings to the collector of customs at the port where products are offered for entry, and shall request the collector to refuse entry to eggs or egg products which are marked or designated "U.S. Refused Entry" or otherwise are not in compliance with the regulations in this part. Unless such products are exported by the consignee within a time specified by the collector of customs (usually 30 days), the consignee shall cause the destruction of such products for human food purposes under the supervision of an inspector. If products are destroyed for human food purposes under the supervision of an inspector, he shall give prompt notice thereof to the District Director of Customs.

(b) Consignees shall, at their own expense, return immediately to the collector of customs, in means of conveyance or packages sealed with the special import seal of the U.S. Department of Agriculture, any eggs or egg products received by them under this part which is marked or designated "U.S. Refused Entry," or which in any respect does not comply with this part.

(c) Except as provided in § 59.930(a), no person shall remove or cause to be removed from any place designated as the place of inspection, any eggs or egg products which the regulations require to be marked in any way, unless the same has been clearly and legibly marked in compliance with this part.

[36 FR 9814, May 28, 1971, as amended at 37 FR 6660, Apr. 1, 1972. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.950 Labeling of containers of eggs or egg products for importation.

(a) Immediate containers of product offered for importation shall bear a label, printed in English, showing:

(1) The name of product; (2) the name of the country of origin of the product, and for consumer packaged products, preceded by the words "Product of," which statement shall appear immediately under the name of the product; (3) the quality or description of shell eggs; (4) for egg products, the word "Ingredients" followed by a list of the ingredients in order of descending proportions by weight; (5) the name and place of business of manufacturer, packer, or distributor, qualified by a phrase which reveals the connection that such person has with the product; (6) an accurate statement of the quantity; (7) for egg products, the inspection mark of the country of origin; and (8) the plant number of the plant at which the egg product was processed and/or packed.

(b) The labels shall not be false or misleading in any respect.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and amended at 45 FR 23641, Apr. 8, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 59.955 Labeling of shipping containers of eggs or egg products for importation.

(a) Shipping containers of foreign product which are shipped to the United States shall bear in a prominent and legible manner the true name of the product, the name of the country of origin, the plant number of the plant in which the egg product was processed and/or packed, and for egg products, the inspection mark of the country of origin, the quality or description for shell eggs, except as required in § 59.905 of this part. Labeling on shipping containers examined at the time of inspection in the United States, if found to be false or misleading, shall be cause for the product to be refused entry.

(b) In the case of products which are not in compliance solely because of misbranding, such products may be brought into compliance with the regulations only under the supervision of an authorized representative of the Administrator.

§ 59.960 Small importations for consignee's personal use, display, or laboratory analysis.

Any eggs or egg products which are offered for importation, exclusively for the consignee's personal use, display, or laboratory analysis, and not for sale or distribution; which is sound, healthful, wholesome, and fit for human food; and which is not adulterated and does not contain any substance not permitted by the Act or regulations, may be admitted into the United States without a foreign inspection certificate. Such product is not required to be inspected upon arrival in the United States and may be shipped to the consignee without further restriction under this part: *Provided*, That the Department may, with respect to any specific importation, require that the consignee certify that such product is exclusively for the consignee's personal use, display, or laboratory analysis and not for sale or distribution. The amount of such product imported shall not exceed 30-dozen shell eggs, 30 pounds of liquid or frozen eggs, or 50 pounds of dried egg products, unless otherwise authorized by the Administrator.

[37 FR 6660, Apr. 1, 1972. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 59.965 Returned U.S. inspected and marked products; not importations.

Products which have been inspected by the United States Department of Agriculture and so marked, and which are returned from foreign countries are not importations within the meaning of this part. Such returned shipments shall be reported to the Administrator by letter.

§ 59.970 Charges for storage, cartage, and labor with respect to products imported contrary to the Act.

All charges for storage, cartage, and labor with respect to any product which is imported contrary to this part shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against such product and any other product thereafter imported under the Act by or for such owner or consignee.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46071, Oct. 15, 1982 and 47 FR 54421, Dec. 3, 1982]

PART 60—MARKET NEWS REPORTS

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60.5 Market News Reports published by the Dairy Division; Fruit and Vegetable Division; Livestock, Meat, Grain, and Seed Division; and Poultry Division.

Authority: 7 U.S.C. 1622(g), 7 U.S.C. 2242a.

Source: 48 FR 15222, Apr. 8, 1983, unless otherwise noted.

§ 60.1 Definitions.

As used in this part:

(a) Market News means marketing information providing historical, current, and outlook information on a wide range of production, supply, demand, price, and other market data to assist in the orderly operation of the United States agricultural economy.

(b) Market News Reports means publications which report statistical and economic research on agricultural marketing.

(c) Department means the United States Department of Agriculture.

(d) Fees refers to charges to recover costs incurred by the Department consisting of printing (including machinery, paper, ink, and miscellaneous supplies), postage and handling (including the accounting supervision) for published reports.

(e) Administrator means the Administrator of the Agricultural Marketing Service, or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act for the Administrator.

§ 60.3 General.

The regulations in this part are issued to implement a subscription fees system for market news reports issued by the Agricultural Marketing Service. All other means of disseminating market news currently in use, such as commercial and public wire services, telephone answering devices, radio, and television will continue without charge to the recipients.

§ 60.5 Market News Reports published by the Dairy Division; Fruit and Vegetable Division; Livestock, Meat, Grain, and Seed Division; and Poultry Division.

Market news reports under the Act and this part shall be distributed in whatever manner and form and for whatever purpose the Administrator may choose and will be available for distribution as follows:

(a) Market news reports shall be available on an annual subscription (or seasonal subscription for reports issued by the Fruit and Vegetable Division) upon written request and upon payment of a subscription fee, except that no fees will be charged to other government agencies which assist in the collection of market news data for the requested report. Establishment of mailing lists, based on the payment of subscription fees, will begin upon publication of this rule and will be updated on a continuing basis.

(b) Subscription fees shall be reviewed by the Administrator and revised, when necessary, to assure recovering of the Department's costs. Subscription renewal notices will specify the subscription rates. Subscription requests for less than a 12-month period will be prorated but may be subject to an additional handling charge.

(c) Requests involving research of records or reports, file copies, large volumes of reports, or requests which require additional handling, will be assessed fees sufficient to cover the actual cost for the requested service.

(d) Information concerning market news reports and fees may be obtained from the Administrator, Agricultural Marketing Service, USDA, Washington, D.C. 20250.

(e) A single copy of daily, semiweekly, and weekly reports prepared by the local market news office may be picked up free of charge at that office.

PART 61—COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES (INSPECTION, SAMPLING AND CERTIFICATION)

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SOURCE: 22 FR 10948, Dec. 28, 1957, unless otherwise noted.

NOTE: Nomenclature changes to Part 61 appear at 37 FR 8059, Apr. 25, 1972.

Subpart A—Regulations

AUTHORITY: Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624, unless otherwise noted.

DEFINITIONS

§ 61.1 Words in singular form.

Words used in the regulations in this subpart in the singular form shall be deemed to import the plural, and vice-versa, as the case may demand.

§ 61.2 Terms defined.

As used throughout the regulations in this part, unless the context otherwise requires, the following terms shall be construed, respectively to mean:

(a) *The act.* The applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U.S.C. 1621 et seq.) or any other act of Congress conferring like authority.

(b) *Regulations.* Regulations mean the provisions in this subpart.

(c) *Department.* The United States Department of Agriculture.

(d) *Secretary.* The Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(e) *Service.* The Agricultural Marketing Service of the United States Department of Agriculture.

(f) *Administrator.* The Administrator of the Agricultural Marketing Service, or any officer or employee of the Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(g) *Division.* The Cotton Division of the Agricultural Marketing Service.

(h) *Director.* The Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(i) *Custodian.* Person who has possession or control of cottonseed or of samples of cottonseed as agent, controller, broker, or factor, as the case may be.

(j) *Owner.* Person who through financial interest owns or controls, or has the disposition of either cottonseed or of samples of cottonseed.

(k) *Official cottonseed standards.* The official standards of the United States for the grading, sampling, and analyzing of cottonseed sold or offered for sale for crushing purposes.

(l) *Supervisor of cottonseed inspection.* An officer of the Division designated as such by the Director.

(m) *License.* A license issued under the act by the Secretary.

(n) *Licensed cottonseed chemist.* A person licensed under the act by the Secretary to make quantitative and qualitative chemical analyses of samples of cottonseed according to the methods prescribed by the Director and to certificate the grade according to the official cottonseed standards of the United States.

(o) *Licensed cottonseed sampler.* A person licensed by the Secretary to draw and to certificate the authenticity of samples of cottonseed in accordance with the regulations in this subpart.

(p) *Dispute.* A disagreement as to the true grade of a sample of cottonseed analyzed and graded by a licensed chemist.

(q) *Party.* A party to a dispute.

(r) *Commercial laboratory.* A chemical laboratory operated by an individual, firm, or corporation in which one or more persons are engaged in the chemical analysis of materials for the public.

(s) *Cottonseed.* The word "cottonseed" as used in this part means the seed, after having been put through the usual and customary process known as cotton ginning, of any cotton produced within the continental United States.

(t) *Lot.* That parcel or quantity of cottonseed offered for sale or tendered for delivery or delivered on a sale or contract of sale, in freight cars, trucks, wagons, or otherwise in the quantities and within the time limits prescribed from time to time by the Director for the drawing and preparation of official samples by licensed cottonseed samplers.

(u) *Official sample.* A specimen of cottonseed drawn and prepared by a licensed cottonseed sampler and certified by him as representative of a certain identified lot, in accordance with the regulations in this subpart.

§ 61.2a Designation of official certificates, memoranda, marks, other identifications, and devices for purpose of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Pub. L. 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks, or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, used under this part to certify with respect to the inspection, sampling, class, grade, quality, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling, pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this part, and any report made by an authorized person of services performed pursuant to this part.

(c) "Official mark" means the grade mark, inspection mark, and any other mark, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded or inspected or both, or indicating the appropriate U.S. grade or condition of the product, or for the purpose or maintaining the identity of products graded or inspected or both under this part.

(d) "Official identification" means any United States (U.S.) standard designation of class, grade, quality, quantity, or condition specified in this part, or any symbol, stamp, label, or seal indicating that the product has been officially graded or inspected and/or indicating the class, grade, quality, quantity, or condition of the product, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

ADMINISTRATIVE AND GENERAL

§ 61.3 Director.

The Director shall perform for and under the supervision of the Secretary and the Administrator, such duties as the Secretary or the Administrator may require in enforcing the provisions of the act and the regulations.

§ 61.4 Supervisor of cottonseed inspection.

The Director, whenever he deems necessary, may designate an officer of the Division as supervisor of cottonseed inspection who shall supervise the inspection and sampling of cottonseed and perform such other duties as may be required of him in administering the act and the regulations.

§ 61.5 Regulations to govern.

The inspection, sampling, analyzing, and grading of cottonseed in the United States pursuant to the act shall be performed as prescribed in methods approved from time to time by the Director.

§ 61.6 Denial of further services.

Any person, partnership, or corporation that shall have undertaken to utilize the services of licensed cottonseed samplers and licensed cottonseed chemists under these regulations who shall not make available for official sampling and analysis each lot of cottonseed purchased or sold on grade and received by such person or partnership or corporation, may be denied further services under the act and these regulations: *Provided*, That in cases of persons, partnerships, or corporations operating two or more cottonseed crushing units under separate local managements, such penalty shall apply only to the offending unit, unless it shall be shown that the actions of such unit were at the direction or with the knowledge, approval, or acquiescence of the general management.

§ 61.7 Misrepresentation.

Any willful misrepresentation or any deceptive or fradulent practice made or committed by an applicant for a cottonseed sampler's certificate or for a cottonseed chemist's certificate or for an appeal grade certificate in connection with the sampling or grading of cottonseed by persons licensed under the act and the regulations or the issuance or use of a certificate not issued by a person licensed under the regulations in imitation of or that might mislead anyone to believe that such certificate was in fact issued by a person licensed under the act, or that might be otherwise false, misleading, or deceptive, may be deemed sufficient cause for debarring such applicant from any further benefits of the act.

§ 61.8 Application for review.

In case of dispute in which a review is desired of the grading of any sample of cottonseed covered by a valid certificate issued by a licensed cottonseed chemist, application therefor shall be filed with or mailed to a supervisor of cottonseed inspection within ten days after the date of the original certificate, whereupon the licensed chemist issuing the certificate shall immediately surrender to such supervisor the retained portion of the original sample, together with such records as may be required, for the determination of the true grade. The supervisor shall assign to such retained portion an identification number, shall divide such retained portion into two parts and submit the parts to two other licensed cottonseed chemists for reanalysis. Should the supervisor determine that such reanalyses indicate a grade differing from the original by not more than plus or minus one full grade, the original grade shall be considered the true grade. Should he find that such reanalyses indicate a grade differing more than plus or minus one full grade from the original, he shall determine the true grade. In any case, the supervisor shall issue over his name an appeal cottonseed grade certificate showing the true grade as determined in accordance with this section, which shall supersede the licensed chemists' certificates relating to the grade of such seed. Where due solely to errors in calculation or clerical error a grade certificated by a licensed cottonseed chemist is not the true grade, the supervisor shall direct the licensee to cancel the original and to issue a correct certificate. Should such error be found after an application for review has been filed, the supervisor shall nevertheless issue an appeal cottonseed grade certificate showing the true grade of the cottonseed involved.

§ 61.9 Cost of review.

In cases of review of the grade of any official sample of cottonseed, payment covering the costs of re-analysis shall accompany the application.

LICENSED COTTONSEED CHEMISTS

§ 61.10 Application for license as cottonseed chemist; form.

(a) Application for licenses to analyze and grade cottonseed shall be made to the Director on forms furnished for the purpose by the Division.

(b) Each such application shall be in English, shall be signed by the applicant, and shall contain or be accompanied by satisfactory evidence (1) that he has passed his twenty-fifth birthday and that he is an actual resident of the continental United States; (2) that he holds a degree in chemistry or chemical engineering from a recognized college or university and has had not less than three years' practical experience in laboratory work in which he shall have analyzed quantitatively and qualitatively samples of cottonseed; or in the absence of a degree from a recognized college or university, that he has had at least five years' practical laboratory experience, three years of which shall have been devoted chiefly to the analysis of samples of cottonseed; (3) that he will have no financial interest in any cottonseed oil mill or cotton ginning establishment; (4) that he agrees to comply with and abide by the terms of the act and these regulations so far as they may relate to him; (5) that he is an independent analytical chemist or an employee of a commercial analytical laboratory; (6) that he owns or will have the use of all of the apparatus specified in the methods established hereunder for the analysis and grading of cottonseed; and (7) such other information as the Director may deem necessary.

(c) Every chemist licensed hereunder to analyze cottonseed and to certificate the grade thereof shall follow precisely the methods of analysis approved from time to time by the Director.

(d) The applicant shall furnish such additional information as the Director shall at any time find to be necessary to the consideration of his application.

§ 61.11 Examination of applicant.

Each applicant for a license as a chemist and each licensed chemist shall when requested submit to an examination or test to show his ability to analyze and grade cottonseed. His failure to pass such test may be considered sufficient ground for withholding the issuance to him of a license or of a renewal of a license.

§ 61.12 Period of license; renewals.

The period for which a license may be issued shall be from the first day of August until and including the 31st day of July following. Renewals shall be for not more than 1 year beginning with the first day of August of each year, provided that licenses issued on and after June 1 of any year shall be for the period ending on July 31 of the following year.

§ 61.13 Conditions in licensing.

It shall be a condition of the licensing of any person, and of the retention by him of a license, that during the active cotton season each year he shall be engaged in or in connection with the grading of cottonseed; that all cottonseed offered for grading shall be analyzed and graded in accordance with the official cottonseed standards of the United States; that each sample of cottonseed received for analysis and grading shall be handled in the order of its receipt at his place of business; and that such license shall not be used or be allowed to be used for any improper purpose.

§ 61.14 Fees for grading and certification.

Whenever any licensed chemist shall grade and/or certificate any cottonseed or samples in consideration of a fee, the fee charged shall be reasonable, unconditional, non-discriminatory, and shall be in accordance with a schedule previously submitted to and approved by the Division. The schedule shall include the certificate fee provided for in § 61.45.

§ 61.15 Records of analyses; inspection of records.

Each licensed chemist, shall keep, or shall cause to be kept for him, for a period of at least 1 year after date of analysis, a record of the analysis of each individual sample of cottonseed graded by him. Each licensed chemist shall permit any authorized officer or agent of the Department to inspect or examine, on any business day during the usual hours of business, his books and records relating to analyses of cottonseed samples and issuance of cottonseed grade certificates under the act and the regulations in this subpart.

§ 61.16 Official and unofficial samples; analyses; certificate.

(a) Each licensed cottonseed chemist shall assign a laboratory number to each sample of cottonseed received by him and shall analyze and certificate over his signature the grade of each sample or lot of cottonseed in the order in which the sample is received.

(b) Each such sample which is in proper condition for analysis under these regulations and which is accompanied by the certificate of a licensed cottonseed sampler certifying it to be an official sample representing an identified lot of cottonseed shall be considered an official sample. In any case where the original sample is lost or destroyed before analysis, the duplicate thereof retained by the licensed cottonseed sampler as provided in § 61.34 shall become the official sample. Each licensed chemist shall retain for a least two weeks a portion of each official sample first analyzed; and in any case where a review is requested under § 61.8 such retained portion shall be considered an official sample for purposes of review analysis.

(c) Each such sample which is (1) not in proper condition for analysis as an official sample under these regulations, or (2) not accompanied by a certificate of a licensed cottonseed sampler, or (3) known to be a duplicate of an official sample (except duplicates of lost or destroyed official samples) shall be considered an unofficial sample and the licensed cottonseed chemist's certificate of the grade thereof shall be plainly marked: "Sample not official; grade applies to sample only." This paragraph shall not apply to mill control or crush samples.

§ 61.17 Grade certificate; form.

Each grade certificate issued under the act by a licensed chemist shall be in a form approved for the purpose by the Director and shall embody within its written or printed terms:

(a) The caption "Cottonseed Grade Certificate."

(b) The serial number assigned to it.

(c) The date and place of issuance.

(d) A statement certifying that the analysis of the cottonseed sample was made according to the methods approved by the Director of the Cotton Division and that the grade given is according to the official standards of the United States.

(e) A statement of the condition of the lot of cottonseed as reported by the sampler, and in cases where the sample was submitted by a licensed sampler, the name and license number of the sampler.

(f) The identification of each lot of cottonseed by the marks and notations by which the seed was identified at the time the sample was taken, and the origin of the cottonseed by county and state.

(g) All analytical data required by the Director.

(h) The signature of the licensed chemist.

In addition, the grade certificate may include any other matter not inconsistent with the act or the regulations in this part. Two copies of the grade certificate form shall be submitted to and approved by the Division before use by a licensed chemist. A copy of each certificate shall be mailed to a designated office of the Division within 36 hours after its issuance.

§ 61.18 Reports of licensed chemists.

Each licensed chemist shall from time to time when requested by the Director, make reports on forms furnished for the purpose by the Division bearing upon his activities as such licensed chemist.

§ 61.19 Information of violations.

Every person licensed under the act shall immediately furnish the Director any information which comes to the knowledge of such person tending to show that any provision of the act or the regulations has been violated.

§ 61.20 Licensed chemists; suspension of license.

The Director may, without a hearing, suspend or revoke the license issued to a licensed chemist upon written request and a satisfactory statement of reasons therefor submitted by such licensed chemist. Pending final action by the Secretary, the Director may, whenever he deems such action necessary, suspend the license of any licensed chemist when such licensed chemist (a) has ceased to perform services as such chemist, (b) has knowingly or carelessly analyzed cottonseed improperly, (c) has violated or evaded any provision of the act or the regulations thereunder so far as the same may relate to him, (d) has used his license or allowed it to be used for any fraudulent or improper purposes, or (e) has in any manner become incompetent or incapacitated to perform the duties of a licensed chemist. In such cases the Director shall give notice of the suspension to the licensed chemist, accompanied by a statement of the reasons therefor. Within 10 days after the receipt of the aforesaid notice and statement of reasons by such licensee, he may file an appeal, in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid 10-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 10 days, the license shall be automatically revoked.

§ 61.21 Suspended license to be returned to Division.

If a license issued to a licensed chemist is suspended, revoked, or canceled, such license shall be returned to the Division. At the expiration of any period of suspension of such license, unless in the meantime it be revoked or canceled, the dates of the beginning and termination of the suspension shall be indorsed thereon, and it shall be returned to the licensed chemist to whom it was originally issued.

§ 61.22 Duplicate license.

Upon satisfactory proof of the loss or destruction of a license issued to a licensed chemist, a duplicate thereof may be issued under the same or a new number.

§ 61.23 Unlicensed persons must not represent themselves as licensed.

No person shall in any way represent himself to be a chemist licensed under the act unless he holds an unsuspended, unrevoked, and uncanceled license issued under the act.

§ 61.24 Information on grading to be kept confidential.

Every person licensed under the act as a licensed chemist shall keep confidential all information secured by him relative to cottonseed analyzed and graded by him. He shall not disclose such information to any person except to the owner or custodian of the seed in question, or to an authorized agent of the Department.

LICENSED COTTONSEED SAMPLERS

§ 61.25 Application for license as sampler; form.

(a) Applications for licenses to sample cottonseed shall be made to the Director on forms furnished for the purpose by him.

(b) Each such application shall be in English, shall be signed by the applicant, and shall contain or be accompanied by (1) satisfactory evidence that he is an actual resident of the United States, (2) satisfactory evidence of his experience in the handling and sampling of cottonseed, (3) a statement by the applicant that he agrees to comply with and abide by the terms of the act and these regulations so far as they relate to him, and with instructions issued from time to time governing the sampling of cottonseed, and (4) such other information as may be required.

§ 61.26 Bonds of licensed samplers.

(a) Each applicant for a license to sample cottonseed shall, as a condition to the granting thereof, execute and file with the Director a good and sufficient bond to the United States to secure the faithful performance of his duties as a licensed sampler under the terms of the act and the regulations in this part. Said bond shall be in such form and amount, not less than $1,000, and shall have such surety or sureties as shall be approved by the Department, subject to service of process in suits on the bond within the State, district, or territory, in which such licensee shall perform services as a licensed cottonseed sampler. Any person injured by the breach of any obligation to secure which a bond is given under this paragraph shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

(b) If the Director finds that conditions warrant such action, there shall be added to the amount previously required under paragraph (a) of this section such additional amount as he shall deem necessary.

§ 61.27 Period of license; renewals.

The period for which a license may be issued under the regulations in §§ 61.25 through 61.42 shall be from the first day of August until and including the 31st day of July following. Renewals shall be for 1 year, beginning with the first day of August of each year: *Provided*, That licenses or renewals issued on and after June 1 of any year shall be for the period ending July 31 of the following year.

§ 61.28 Renewal of license; bond.

It shall be a condition of the renewal of any license hereunder that the licensed sampler shall file a new bond in the required amount with, and that such bond shall be approved by, the Director or his authorized representative: *Provided*, That in the discretion of the Director or his authorized representative a properly executed instrument in form approved by him amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the licensed sampler and otherwise complying with the regulations in §§ 61.25 through 61.42 may be filed in lieu of a new bond.

§ 61.29 Approval of bond.

No bond, amendment, or continuation thereof shall be deemed accepted for the purpose of the regulations in §§ 61.25 through 61.42 until it has been approved by the Director or his authorized representative.

§ 61.30 Examination of sampler.

Each applicant for a license as a sampler and each licensed sampler whenever requested by an authorized representative of the Director, shall submit to an examination or test to show his ability properly to perform the duties for which he is applying for a license or for which he has been licensed, and each such applicant or licensee shall furnish the Division any information requested at any time in regard to his sampling of cottonseed.

§ 61.31 License must be posted.

Each licensed sampler shall keep his license conspicuously posted at the place where he functions as a sampler or in such other place as may be approved by the Director.

§ 61.32 No discrimination in sampling.

Each licensed sampler, when requested, shall without discrimination, as soon as practicable and upon reasonable terms, sample any cottonseed if the same be made available to him at his place of business, under conditions that will permit proper sampling. Each such licensee shall give preference to those who request his services as such over persons who request his services in any other capacity.

§ 61.33 Equipment of sampler; contents of certificate.

Each licensed sampler shall have available suitable triers or sampling tools, sample containers, scales, seed cleaners, seed mixers, and air-tight containers for enclosing and forwarding the official samples to licensed chemist, and with tags and samplers' certificates approved or furnished by the Director or his representative for identifying the samples of cottonseed and for certificating the condition of the cottonseed represented by such samples. There shall be clearly written or printed on the face of such certificate (a) a suitable caption; (b) the location of the cottonseed involved and its point of origin; (c) the identification of the lot from which the sample was drawn; (d) the date on which the sample was drawn; (e) the gross weight of the original sample, and the net weight of the cleaned sample; (f) a statement indicating that the sample was drawn in accordance with sampling methods prescribed by the Director of the Cotton Division; and (g) the signature of the licensed sampler as such. The use of such tags and certificates shall be in conformity with instructions issued from time to time by the Division.

§ 61.34 Drawing and preparation of sample.

Each licensed cottonseed sampler shall draw, prepare, and identify one official sample of cottonseed and a duplicate thereof from each lot made available to him in such manner as may be required by the Director, and shall promptly prepare it for forwarding to a licensed cottonseed chemist for analysis and grading. The duplicate shall be sealed and retained by the sampler until the original official sample shall have been analyzed by a licensed chemist. If the original official sample shall become lost or destroyed before having been analyzed the duplicate shall become the official sample; otherwise the licensed sampler shall immediately remove the identification marks from the duplicate and discard it. In no case shall the duplicate be offered for analysis unless the original shall have been lost or destroyed before analysis.

§ 61.36 Cause for suspension or revocation.

The failure or refusal of any cottonseed sampled, duly licensed as such under the regulations in this subpart, to draw, prepare, identify, and to forward an official sample of every lot of cottonseed made available to him for the purpose, in accordance with these regulations, shall be cause for the suspension or revocation of his license. A sampler's license may also be suspended when the sampler (a) has ceased to perform services as a licensed cottonseed sampler, (b) has knowingly or carelessly sampled cottonseed improperly, (c) has violated or evaded any provision of the Act, these regulations, or the sampling methods prescribed by the Director, (d) has used his license or allowed it to be used for any fraudulent or improper purposes, or (e) has in any manner become incompetent or incapacitated to perform the duties of a licensed sampler.

§ 61.37 License may be suspended.

The Director may, without a hearing, suspend or revoke the license issued to a licensed sampler upon written request and a satisfactory statement of reasons therefor submitted by such licensed sampler. Pending final action by the Secretary, the Director may, whenever he deems such action necessary, suspend the license of any licensed sampler by giving notice of such suspension to the licensee, accompanied by a statement of the reasons therefor. Within 10 days after the receipt of the aforesaid notice and statement of reasons by such licensee, he may file an appeal, in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid 10-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 10 days, the license shall be automatically revoked.

§ 61.38 Suspended license to be returned to Division.

In case a license issued to a sampler is suspended or revoked such license shall be returned to the Division. At the expiration of any period of suspension of such license, unless in the meantime it be revoked, the dates of beginning and termination of such suspension shall be endorsed thereon, it shall be returned to the person to whom it was originally issued, and its shall be posted as prescribed in § 61.31.

§ 61.39 Duplicate license.

Upon satisfactory proof of the loss or destruction of a license issued to a sampler hereunder, a new license may be issued under the same or a new number.

§ 61.40 Reports of licensed samplers.

Each licensed sampler, when requested, shall make reports on forms furnished for the purpose by the Division bearing upon his activity as such licensee.

§ 61.41 Unlicensed persons must not represent themselves as licensed samplers.

No person shall in any way represent himself to be a sampler licensed under the act unless he holds an unsuspended and unrevoked license issued thereunder.

§ 61.42 Information on sampling to be kept confidential.

Every person licensed under the act as a sampler of cottonseed shall keep confidential all information secured by him relative to shipments of cottonseed sampled by him. He shall not disclose such information to any person except an authorized representative of the Department.

FEES AND COSTS

§ 61.43 Fee for sampler's license.

In the examination of an applicant for a license to sample and certificate official samples of cottonseed the fee shall be $17, but no additional charge shall be made for the issuance of a license. For each renewal of a sampler's license the fee shall be $15.

[49 FR 26547, June 28, 1984]

§ 61.44 Fee for chemist's license.

For the examination of an applicant for a license as a chemist to analyze and certificate the grade of cottonseed the fee shall be $325, but no additional charge shall be made for the issuance of a license. For each renewal of a chemist's license the fee shall be $110.

[49 FR 26547, June 28, 1984]

§ 61.45 Fee for certificates to be paid by licensee to Service.

To cover in part the cost of administering the regulations in this part each licensed cottonseed chemist shall pay to the Service $1.25 for each certificate of the grade of cottonseed issued by him. Upon receipt of a statement from the Service each month showing the number of certificates issued by the licensee, such licensee will forward the appropriate remittance in the form of a check, draft, or money order payable to the "Agricultural Marketing Service, USDA."

[49 FR 26547, June 28, 1984]

§ 61.46 Fees for the review of grading of cottonseed.

For the review of the grading of any lot of cottonseed, the fee shall be $45. Remittance to cover such fee, in the form of a check, draft, or money order payable to the "Agricultural Marketing Service, USDA" shall accompany each application for review. Of each such fee collected, $15 shall be disbursed to each of the two licensed chemists designated to make reanalysis of such seed.

[49 FR 26547, June 28, 1984]

Subpart B—Standards for Grades of Cottonseed Sold or Offered for Sale for Crushing Purposes Within the United States.

AUTHORITY: Secs. 203, 205, 60 Stat. 1087, 1090, as amended; 7 U.S.C. 1622, 1624.

§ 61.101 Determination of grade.

The grade of cottonseed shall be determined from the analysis of samples, and it shall be the result, stated in the nearest whole or half numbers, obtained by multiplying a quantity index by a quality index and dividing the result by 100. The quantity index and the quality index shall be determined as hereinafter provided.

(a) The basis grade of cottonseed shall be grade 100.

(b) High grades of cottonseed shall be those grades above 100.

(c) Low grades of cottonseed shall be those grades below 100.

(d) Grades for American Pima cottonseed shall be suffixed by the designation "American Pima" or by the symbol "AP."

[22 FR 10948, Dec. 28, 1957, as amended at 37 FR 20157, Sept. 27, 1972]

§ 61.102 Determination of quantity index.

The quantity index of cottonseed shall be determined as follows:

(a) For upland cottonseed the quantity index shall equal four times percentage of oil plus six times percentage of ammonia, plus 5.

(b) For American Pima cottonseed the quantity index shall equal four times percentage of oil, plus six times percentage of ammonia, minus 10.

[37 FR 20157, Sept. 27, 1972]

§ 61.103 Determination of quality index.

The quality index of cottonseed shall be an index of purity and soundness, and shall be determined as follows:

(a) *Prime quality cottonseed.* Cottonseed that by analysis contains not more than 1.0 percent of foreign matter, not more than 12.0 percent of moisture, and not more than 1.8 percent of free fatty acids in the oil in the seed, shall be known as prime quality cottonseed and shall have a quality index of 100.

(b) *Below prime quality cottonseed.* The quality index of cottonseed that, by analysis, contain foreign matter, moisture, or free fatty acids in the oil in the seed, in excess of the percentages prescribed in paragraph (a) of this section shall be found by reducing the quality index of prime quality cottonseed as follows:

(1) Four-tenths of a unit for each 0.1 percent of free fatty acids in the oil in the seed in excess of 1.8 percent.

(2) One-tenth of a unit for each 0.1 percent of foreign matter in excess of 1.0 percent.

(3) One-tenth of a unit for each 0.1 percent of moisture in excess of 12.0 percent.

(c) *Off quality cottonseed.* Cottonseed that has been treated by either mechanical or chemical process other than the usual cleaning, drying, and ginning (except sterilization required by the United States Department of Agriculture for quarantine purposes) or that are fermented or hot, or that upon analysis are found to contain 12.5 percent or more of free fatty acids in the oil in the seed, or more than 10.0 percent of foreign matter, or more than 20.0 percent of moisture, or more than 25.0 percent of moisture and foreign matter combined, shall be designated as "off quality cottonseed."

(d) *Below grade cottonseed.* Cottonseed the grade of which when calculated according to § 61.101 is below grade 40.0 shall be designated as "below grade cottonseed," and a numerical grade shall not be indicated.

§ 61.104 Sampling, analysis, and certification of samples and grades.

The drawing, preparation, and certification of samples of cottonseed, and the analysis and certification of grades of cottonseed shall be performed in accordance with methods approved from time to time for the purposes by the Director, or his representatives.

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

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68.609 Special grades and requirements.
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AUTHORITY: Secs. 203, 205, 60 Stat. 1087, 1090, as amended; 7 U.S.C. 1622, 1624, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to Part 68 appear at 37 FR 8059, Apr. 26, 1972.

Subpart A—Regulations

Source: 13 FR 9479, Dec. 31, 1948; 19 FR 57, Jan. 6, 1954, unless otherwise noted.

Definitions

§ 68.1 Meaning of words.

Words used in the regulations in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 68.2 Terms defined.

For the purpose of the regulations in this part unless the context otherwise requires, the following terms shall be construed, respectively, as follows:

(a) "Acts" means the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.), and the following provisions of the Department of Agriculture Appropriation Act, 1949 (62 Stat. 507, 7 U.S.C. Supp. 414), or similar provisions of any future act of Congress conferring like authority: "For the investigation and certification, in one or more jurisdictions, to shippers and other interested parties of the class, quality, and condition of any agricultural commodity or food product, whether raw, dried, canned, or otherwise processed, and any product containing an agricultural commodity or derivative thereof when offered for interstate shipment or when received at such important central markets as the Secretary may from time to time designate, or at points which may be conveniently reached therefrom under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered."

(b) "Regulations" means the regulations in this part.

(c) "Department" means the United States Department of Agriculture.

(d) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(e) *Administrator.* The Administrator of the Federal Grain Inspection Service (FGIS) of the Department, or any other officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(f) *Division.* The Field Management Division of the Federal Grain Inspection Service of the Department.

(g) "Director" means the Director of the Division or any other officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(h) "Person" means any individual, partnership, association, business trust, corporation, or any other organized group of persons, whether incorporated or not.

(i) "Interested party" means any person financially interested in a transaction involving a commodity.

(j) "Applicant" means an interested party who requests any inspection service with respect to a commodity.

(k) *Inspector.* Any employee of the Department authorized by the Administrator, or any other person licensed by the Administrator, to inspect and certify the class, quality, quantity, or condition of specified commodities.

(l) *Supervising inspector.* Any employee of the Department authorized by the Administrator to inspect or certify the class, quality, quantity, or condition of specified commodities or designated by the Director to supervise the work of inspectors and official samplers.

(m) *Official sampler.* Any person licensed by the Administrator to drawn samples of commodities for inspection or any employee of the Department authorized by the Director or by a supervising inspector to drawn samples of commodities for inspection.

(n) "Commodity" means any one of the following agricultural commodities and products: dry beans, grain, hay, hops, lentils, oilseeds, dry peas, split peas, rice, agricultural and vegetable seeds, straw, and other agricultural commodities, and products of any of such commodities, assigned by the Administrator to the Division for inspection.

(o) "Office of inspection" means the office of an inspector.

(p) "Inspection certificate" means a written or printed statement issued by an inspector pursuant to the acts and the regulations relative to the class, quality, quantity, or condition of commodities at the time and place stated therein.

(q) "Inspection" means (1) applying such tests and making such examinations of a commodity and records, according to the regulations, as may be necessary to determine the class, grade, other quality designation, quantity, or condition of such commodity, and (2) issuing an inspection certificate.

(r) "Grade" means a grade as defined in official standards for a commodity promulgated by the Secretary.

(s) "Origin" means the place or geographical area where the commodity is grown which is a factor of quality.

(t) "Cooperative agreement" means a memorandum of agreement between the Department and other branches of the Federal Government, State agencies, and other agencies or persons, to conduct, cooperatively, commodity inspection services as authorized in the acts.

(u) *Federal inspection service.* The inspection service performed under the regulations by an authorized employee of the Department or a licensed sampler. (Inspection certificates are issued by the Division and all fees and charges are collected by the Federal Grain Inspection Service for Federal inspection service.)

(v) "Federal-cooperator inspection service" means inspection service provided by a cooperator under the regulations and the provisions of a cooperative agreement with the Department. Under this service, inspection certificates are issued by the cooperator and all fees and charges are collected by the cooperator, except as provided in the cooperative agreement. The fees and charges assessed by the cooperator shall be reasonable, and as nearly as practicable, cover the cost of providing the service.

(w)-(z) [Reserved]

(aa) *Official technician.* Any person licensed under the Act and regulations, or any employee of the Department who is authorized under the Act and regulations to perform specified official laboratory functions, including, but not limited to, chemical analyses, mechanical tests, or physical separations, or to perform sampling duties and related services, as specified in the license or authorization.

(bb) [Reserved]

(cc) *Continuous inspection.* The conduct of inspection or grading services in an approved plant whereby one or more official inspection personnel are present during the processing of a product to make in-process examinations of the preparation, processing, packing, and warehousing of the products and to assure compliance with sanitation requirements.

(dd) *Approved plant.* Any plant in which the facilities, sanitation, and methods of operation have been approved by the Department or an agency acceptable to the Department.

(ee) [Reserved]

(ff) *Factor.* A physical or chemical property identified in the official standards that measures a specific quality of a commodity.

[13 FR 9479, Dec. 31, 1948, as amended at 31 FR 5605, Apr. 9, 1966; 34 FR 5709, Mar. 27, 1969; 37 FR 7291, Apr. 13, 1972; 40 FR 47101, Oct. 8, 1975; 40 FR 53545, Nov. 19, 1975; 42 FR 12033, Mar. 2, 1977; 47 FR 34516, Aug. 10, 1982; 49 FR 26549, June 28, 1984]

ADMINISTRATION

§ 68.3 Authority.

The Director is charged with the administration of the provisions of the regulations and of the acts insofar as they relate to the subject matter of the regulations, under the supervision of the Secretary and the Administrator.

INSPECTION

§ 68.4 Kind and availability of service.

(a) The inspection of commodities shall be (1) according to (i) standards of class, grade, other quality designation, quantity, or condition for such commodities promulgated by the Secretary; or (ii) specifications prescribed by Federal agencies; or (iii) specifications of trade associations or organizations approved by the Director; or (iv) instructions and procedures adopted or prescribed by the Director; or (2) for one or more factors of class, grade, other quality designation, quantity, or condition, as defined in such standards, specifications, or instructions and procedures, or otherwise as approved by the Director.

(b) Inspection under the regulations may be provided for commodities shipped or received in interstate commerce and may also be provided for commodities at important central markets and other places designated by the Director when he determines that such inspection will facilitate the marketing distribution, processing, and utilization of agricultural products through commercial channels.

[26 FR 5657, June 24, 1961, as amended at 34 FR 5709, Mar. 27, 1969]

§ 68.5 Regulations not applicable for certain purposes.

The regulations do not apply to the inspection of grain in the United States under the United States Grain Standards Act, as amended, (7 U.S.C. 71 et seq.) or to the testing and inspection of seed under the Federal Seed Act (7 U.S.C. 1551 et seq.).

[42 FR 12033, Mar. 2, 1977]

§ 68.6 Who may inspect commodities.

The inspection of commodities shall be made by a person who has been authorized or licensed by the Administrator to perform such functions.

[34 FR 5709, Mar. 27, 1969]

§ 68.7 Who may obtain service.

An application for inspection may be made by any interested party or his authorized agent.

§ 68.8 How to make application.

An application for inspection may be made to any office of inspection. Such application may be made orally, in writing, or by telegraph. If made orally, the office of inspection may require that such application be confirmed in writing.

(Approved by the Office of Management and Budget under control number 0580-0004)

[13 FR 9479, Dec. 31, 1948; 19 FR 57, Jan. 6, 1954, as amended at 48 FR 44452, Sept. 29, 1983]

§ 68.9 Form of application.

An application for inspection shall include the following information: (a) The date of the application; (b) the identification, quantity, and location of the commodity; (c) the name and post office address of the applicant and, if made by an authorized agent, the name and post office address of such agent; and (d) such other information relating to the inspection as may be required by the official with whom the application is filed.

§ 68.10 When application may be withdrawn.

Upon payment by an applicant of the charges required by § 68.45, an application for inspection may be withdrawn at any time before the certificate has been issued or the results of the inspection have been furnished through other means.

§ 68.11 Accessibility of commodities.

Each lot of a commodity for which inspection is requested shall be so placed as to permit the entire lot to be examined or a representative sample thereof to be obtained as required by the kind of inspection to be performed: *Provided*, That if the entire lot is not accessible for examination or a representative sample cannot be obtained, the accessible portion of the lot may be examined or sampled and the inspection restricted to such portion, and the results certified as outlined in § 68.14.

§ 68.12 Lot inspection.

A lot inspection shall be made by examining an identified lot of a commodity, by analyzing or testing a representative sample or samples of such commodity or by examining relevant records concerning a commodity, whichever may be required for the kind of service requested.

§ 68.13 Sample inspection.

A sample inspection shall be made by examining, analyzing, or testing a sample of a commodity submitted by an applicant for inspection.

§ 68.14 Inspection certificate, issuance.

Immediately after an inspection has been completed, an inspection certificate shall be issued showing the results of the inspection in accordance with paragraph (a) or (b) of this section. For graded commodities, each official certificate shall show the grade in accordance with the official grade standards, all factor information requested by the applicant for inspection, any factor for which an official determination is made during the course of inspection, and for all commodities graded below the highest quality grade the certificate shall shown all grade determining factors.

(a) *Lot inspection certificate.* A lot inspection certificate shall be issued to show the results of the inspection of an identified lot of a commodity: *Provided,* That, when the entire lot is not accessible for examination or a representative sample thereof cannot be obtained, the certificate shall state the estimated quantity of the commodity in the accessible portion or in the portion for which a representative sample has been obtained, and that the inspection is restricted to such portion, and such certificate may have printed or stamped thereon the words "Partial inspection" or "Partial inspection certificate."

(b) *Sample inspection certificate.* A sample inspection certificate shall be issued to show the results of the inspection of a sample of a commodity submitted by an interested party. Each sample inspection certificate shall state that the results of the inspection set out therein apply only to the sample described in the certificate.

(c) *General authorization to issue certificates.* Certificates for inspection conducted by a Federal-cooperator inspection service agency may be issued in accordance with paragraph (d) of this section by any official sampler, official technician, or inspector who is employed by the cooperating agency and is licensed to perform and to certify the inspection covered by the certificate: *Provided,* that only a licensed inspector may issue a certificate which shows an official grade determination, with or without additional factor information. Certificates for inspections conducted by the Division may be issued in accordance with paragraph (d) of this section by any official sampler, official technician, inspector, or supervising inspector who is employed by the Department and authorized by the Administrator to perform the inspection covered by the certificate. In no case may a person issue a certificate unless he is licensed or otherwise authorized to issue the certificate.

(d) *Specific requirements for issuing certificates.* The person who is in the best position to know whether an inspection has been performed in an approved manner and whether the final determinations are accurate and true shall issue the certificate for the inspection. If an inspection is performed, in whole, or in large part, by one person, the certificate shall be issued by that person. If an inspection is performed by two or more persons, the certificate shall be issued by the person who made the majority of the more significant determinations. However, in any case, a supervisory inspector may issue any official certificate if he is licensed or authorized to perform the inspection covered by the certificate and has ascertained by examination of the product or relevant records that the facts stated in the certificate are true.

(e) *Name requirements.* The name or the signature, or both, of the person who issued the inspection certificate shall be shown on the certificate: *Provided,* That the name and the signature shall be shown on each original export certificate and, upon request of an applicant, shall be shown on other original certificates. If an original certificate is signed, either the signature or a stamped facsimile shall be shown on each copy.

(f) *Authorizations to affix names.* (1) The names or the signatures of official inspection personnel who issue official certificates may be affixed to the official certificates by persons other than the official inspection personnel: *Provided,* That (i) the persons are employed by a cooperating agency or by the Division; (ii) the persons have been designated as authorized agents for this purpose by a Field Office; (iii) a power of attorney authorizing the affixing of the names or signatures has been issued to each such person by each of the official inspection personnel; (iv) if the person is employed by a cooperating agency, the original or a true copy of the designation and of the power of attorney are on file in the office of the agency and a copy of each document is on file in the Field Office, and in the case of Division personnel, the original or a true copy of the designation and of the power of attorney are on file in the Field Office; and (v) the certificate is prepared from an official work record which has been personally signed by the person whose name or signature is shown on the certificate.

(2) When a name or signature of any official inspection personnel issuing a certificate is affixed to an official certificate by an authorized agent, the word "By" and the initials of the given names and surname of the authorized agent shall be shown on the certificate immediately below or following the name or signature of such official inspection personnel.

[13 FR 9479, Dec. 31, 1948, as amended at 37 FR 7291, Apr. 13, 1972; 40 FR 53545, Nov. 19, 1975; 47 FR 34516, Aug. 10, 1982]

§ 68.15 Inspection certificate, form.

Each inspection certificate shall be approved by the Director as to form, shall state the results of the inspection, and shall embody within its written or printed terms only such statements of fact as may be required or authorized by the Director. No correction, erasure, or other change shall be made in the quality or quantity information on a certificate by official inspection personnel or any other person before or after issuance.

[34 FR 5709, Mar. 27, 1969]

§ 68.16 Inspection certificates; distribution.

Upon issuance, the original and a minimum of one copy of each inspection certificate shall be delivered or mailed to the applicant or to the applicant's order. A maximum of three copies of the inspection certificate may be furnished to the applicant without an additional charge. In addition, one copy of each inspection certificate shall be filed with the office providing the inspection, and one copy shall be forwarded to the office supervising the inspection.

[49 FR 26549, June 28, 1984]

§ 68.16a Issuance of corrected certificate.

(a) If any error is made in an inspection, a corrected inspection certificate may be issued in accordance with instructions issued by the Director. The term "error" shall be deemed to include any error of commission or error of omission.

(b) The original and copies of the corrected certificate shall be issued as promptly as possible to the same interested persons as received the incorrect certificate.

(c) The corrected certificate shall supersede the incorrect inspection certificate previously issued. The corrected certificate shall clearly identify by certficate number and date the incorrect certificate which it supersedes.

(d) The issuing inspector shall obtain the original and all copies of the superseded incorrect certificate if possible. If the inspector is unable to obtain the original and all copies of the superseded certificate, he shall, to the extent possible, notify all parties to the transaction, to prevent misuse of the superseded certificate.

[34 FR 14325, Sept. 12, 1969]

APPEAL INSPECTION

§ 68.21 How to obtain an appeal inspection.

(a) An application for appeal inspection may be made by any interested party who is dissatisfied with the results of an inspection.

(b) The application shall be made in writing or by telegraph and shall be filed in the office of a Supervising Inspector.

(c) The inspection certificate for the inspection appealed from shall be submitted with the application or as soon thereafter as possible.

(d) This paragraph is applicable to rice inspection only: Except as may be agreed upon by the interested parties, the application shall be filed before the rice has left the place where the inspection appealed from was made and not later than the close of business on the second business day following the date of the inspection appealed from, which time of filing may be extended by the Supervising Inspector for good cause shown.

(e) Subject to the limitations in paragraphs (f) and (g) of this section, an appellant may request that an appeal lot inspection be based on the official file sample, or based on a new sample if the lot can be positively identified by the Supervising Inspector as the lot which was previously inspected and the entire lot is available for sampling and examination. However, only one appeal inspection may be obtained from any original inspection.

(f) Subject to the limitations in paragraph (g) of this section, at the option of the Supervising Inspector, an appeal lot inspection shall be based on the sample or samples which are considered most representative of the lot.

(g) An appeal inspection shall be limited to a review of the sampling procedure and an analysis of the official file sample when, as a result of the original inspection, the commodity was found to be contaminated with filth or to contain a deleterious substance. If it is determined that the sampling procedures were improper, a new sample shall be obtained if the lot can be positively identified by the Supervising Inspector as the lot which was previously inspected and the entire lot is available for sampling and examination.

[34 FR 14325, Sept. 12, 1969]

§ 68.21a When appeal inspection may be refused.

An application for an appeal inspection may be refused if

(a) the reasons for the appeal inspection are frivolous or not substantial;

(b) the quality or condition of the product has undergone a material change since the inspection covering the product on which the appeal inspection is requested;

(c) a new sample is requested and the lot in question is not, or cannot be, made accessible for the inspection;

(d) a new sample is requested and the lot relative to which appeal inspection is requested cannot be identified positively by the inspector as the lot which was previously inspected; or

(e) there is noncompliance with the regulations in this part. In cases under this paragraph, the applicant shall be notified promptly of the reason for refusal.

[34 FR 5709, Mar. 27, 1969]

§ 68.22 Appeal application, form.

An application for an appeal inspection shall be signed by the applicant or his duly authorized agent and shall state: (a) The identification, quantity, and location of the commodity at the time of making the appeal; (b) the names and post office addresses of all interested parties; and (c) such other information relevant thereto as may be required by the supervising inspector.

§ 68.23 Record of filing appeal application.

A record showing the date and place of filing an application for appeal inspection and including any other available documents pertaining to such appeal inspection shall be made immediately upon receipt thereof at the office of the supervising inspector.

§ 68.24 When appeal application may be withdrawn.

Upon payment by an appellant of the fees and charges required by § 68.45, an application for an appeal inspection may be withdrawn at any time before the Federal appeal certificate has been issued or the results of the inspection have been furnished through other means.

§ 68.25 Who shall make appeal inspections.

An appeal inspection shall be made only by a supervising inspector authorized by the Director to make appeal inspections of the commodity involved.

§ 68.26 Appeal inspection certificate, issuance.

Immediately after an appeal inspection has been completed, an inspection certificate designated as "Federal Appeal Inspection Certificate" shall be issued by the supervising inspector, showing the results of such appeal inspection, and such certificate shall identify by number and date, the certificate which it supersedes.

§ 68.27 Appeal inspection certificate, distribution.

Upon issuance, the original and a minimum of one copy of each inspection certificate shall be delivered or mailed to the appellant or the the appellant's order. A maximum of three copies of the inspection certificate may be furnished to the appellant without an additional charge. A copy shall also be furnished to each interested party of record, and to the agency or field office that performed the inspection that was appealed.

(Approved by the Office of Management and Budget under control number 0580-0002)

(Secs. 203, 205, ch. 966 title II, Stat. 1087, 1090, as amended; 7 U.S.C. 1622, 1624)

[49 FR 26550, June 28, 1984]

§ 68.28 Appeal inspection certificate supersedes inspection certificate.

An appeal inspection certificate shall supersede the inspection certificate with respect to which the appeal inspection is made; and such supersedure shall be effective as of the date of issuance of such appeal inspection certificate.

§ 68.28a Appeal to board of appeals and review.

Any party to an appeal of a grade of a graded commodity may make a further appeal to the board of appeals and review constituted for this purpose by the Director, except that if the initial appeal inspection is performed by the board of appeals and review, no further appeal may be made. If an appeal to the board is filed, a sample or samples of the commodity involved and all other evidence shall be immediately submitted to the board which shall make such examination and apply such tests as may be necessary to determine the grade of the commodity. Such board shall, if the regulations be complied with, issue or cause to be issued an appeal grade certificate showing the grade assigned by such board to the commodity, which appeal grade certificate shall supersede any grade certificate previously issued and shall be the final grade certificate.

[34 FR 5710, Mar. 27, 1969]

§ 68.29 New inspection.

The provisions of §§ 68.4 to 68.28 with respect to inspections and appeal inspections shall not be construed to prevent any interested party from obtaining a new inspection on any commodity when the circumstances are such as to preclude an appeal inspection under the regulations, except that a new inspection may not be performed on an identifiable commodity lot that has been previously inspected and found to be contaminated with filth or to contain a deleterious substance. A certificate issued as a result of a new inspection shall not supersede any inspection certificate previously issued. An application for a new inspection shall not be restricted to the scope of any previous inspection and the applicant may request any or all of the inspection services provided for by the regulations in this part with the privilege of appeal inspection.

[34 FR 5710, Mar. 27, 1969]

GENERAL PROVISIONS FOR INSPECTION AND APPEAL INSPECTION

§ 68.30 Authority of applicant.

Proof of the authority of the person applying for any inspection service may be required in the discretion of the official to whom application for inspection is made.

§ 68.31 Advance information.

Upon the request of an applicant for inspection, all or any part of the contents of an inspection certificate issued to such applicant may be telegraphed or telephoned to him at his expense.

§ 68.32 Accessibility of records.

In the case of inspection for origin, the records indicating the origin of the commodity to be inspected shall be made accessible for examination and verification by an inspector.

§ 68.33 Manner of sampling, examinations, analyses, etc.

All samplings, examinations, analyses, and tests shall be made in accordance with instructions and procedures prescribed or approved by the Director.

§ 68.34 Conditions and order upon which inspection service is furnished.

(a) *Conditions of service.* Service under the regulations in this part will be furnished only if the applicant has complied with the Act and the regulations in this part prescribing the conditions upon which service is made available.

(b) *Order of service.* Official services shall be performend, to the extent practicable, in the order in which requests for service are received. Precedence shall be given, as necessary, to: (1) Contract service participants; (2) requests for appeal service; (3) requests for service by Government agencies; and (4) requests by regular users of the service.

(Secs. 203, 205, ch. 966 title II, Stat. 1087, 1090, as amended; 7 U.S.C. 1622, 1624)

[49 FR 26550, June 28, 1984]

§ 68.35 Denial or withdrawal of inspection service.

(a) A denial or disciplinary withdrawal of inspection services may be made because of (1) any willful misrepresentation or deceptive or fraudulent practice made or committed by any person in connection with the making or filing of an application for inspection service; (2) any fraudulent or unauthorized use, alteration, or imitation or any certificate issued pursuant to the regulations; (3) any interference with or obstruction of any inspector or official sampler in the performance of his duties, by intimidation, threat, assault or any other improper means; or (4) any willful violation of the regulations.

(b) A conditional withdrawal of inspection services may be made for a correctable cause such as (1) failure to pay bills for inspection services, (2) insanitary plant conditions, or (3) plant conditions which would subject the inspector to unusual hazard or discomfort.

(c) The rules of practice governing denial or withdrawal of inspection and grading services (Part 50 of this chapter) shall be followed in the denial or withdrawal of service.

[34 FR 5710, Mar. 27, 1969]

AUTHORIZED INSPECTORS

§ 68.36 Who may be authorized.

Any employee of the Department who has demonstrated that he possesses a thorough knowledge of a commodity and the standards, and instructions and procedures under which it is inspected may be authorized by the Administrator to inspect such commodity.

[34 FR 5710, Mar. 27, 1969]

LICENSED INSPECTORS AND SAMPLERS

§ 68.37 Who may be licensed as inspectors.

Any person who is employed under the terms of a cooperative agreement, who possesses proper qualifications, as determined by the Director, and who has no interest, financial or otherwise, direct or indirect, in merchandising, handling, storing, or processing any commodities of the kind to be inspected by him or related products, may be licensed by the Secretary to inspect such commodities. Each license which is issued by the Secretary shall be countersigned by the Director. Each person who applied for a license as an inspector shall if so required by the Director, be examined for the purpose of determining his competency. Such examination shall be held at such time and place and in such manner as may be prescribed by the Director.

(Approved by the Office of Management and Budget under control number 0580-0008)

[13 FR 9479, Dec. 31, 1948; 19 FR 57, Jan. 6, 1954, as amended at 48 FR 44453, Sept. 29, 1983]

§ 68.38 Who may be licensed as samplers.

Any person who possesses proper qualifications as determined by a supervising inspector, and has no interest, financial or otherwise, direct or indirect, in merchandising, handling, storing, or processing commodities of the kind to be sampled by him or related products may be licensed by the Secretary to draw samples of such commodities. Each license which is issued to samplers by the Secretary shall be countersigned by the supervising inspector under whose direction the licensee draws samples of commodities.

(Approved by the Office of Management and Budget under control number 0580-0002)

[13 FR 9479, Dec. 31, 1948; 19 FR 57, Jan. 6, 1954, as amended at 48 FR 44453, Sept. 29, 1983]

§ 68.39 Sampling procedure.

Upon request of any inspector, a licensed sampler shall draw a sample or samples from a designated lot or lots of commodities in accordance with methods prescribed by the Director. Such sampler shall forward all samples of commodities thus drawn to a designated office of inspection in accordance with the instructions of a supervising inspector, and shall furnish, with each sample, the information which the supervising inspector may request.

§ 68.40 Samples to be identified.

Each sample shall be accompanied by a sampling report signed by the licensed sampler, giving the identity, quantity, and location of the commodity sampled, the name and address of the applicant for inspection, and such other information regarding the lot of the commodity sampled as may be required by the supervising inspector.

§ 68.41 Suspension or revocation of licenses.

(a) The license of any inspector or sampler licensed under the regulations may be suspended or revoked if the licensee, (1) through willfulness, carelessness or incompetence fails to perform his duties in accordance with the regulations, and instructions and procedures prescribed by the Director; (2) becomes incapable of properly performing such duties; or (3) engages in any of the activities specified in § 68.35 or § 68.52.

(b) In cases of willfulness, or those in which the public health, interest, or safety so requires, the license of any licensed inspector or sampler may be summarily suspended by the Director without hearing, pending investigation, but the licensee shall be advised of the facts or conduct which appear to warrant suspension or revocation of his license and shall be accorded an opportunity for a hearing before a proper official in the Department, before the license is finally suspended or revoked. In all other cases, prior to the institution of proceedings for the suspension or revocation of a license, the Director shall cause to be served upon the licensee, in person or by registered mail, a statement of the facts which appear to warrant such suspension or revocation, specifying a reasonable time, depending upon the circumstances in each case, within which the licensee may demonstrate or achieve compliance with the acts, the regulations and instructions and procedures prescribed by the Director. The licensee may demonstrate compliance by the presentation of evidence in writing or, in the discretion of the Director, at an oral hearing. At the end of the time allowed for the licensee to demonstrate or achieve compliance, if the Director finds he is in compliance, proceedings for the suspension or revocation of his license shall not be instituted, but if the Director finds the licensee is not in compliance, he may institute such proceedings and, after service upon the licensee, in person or by registered mail, of a notice that suspension or revocation of his license is under consideration for reasons set out in the statement previously served upon him, and after opportunity for hearing before a proper official in the Department, the license may be suspended or revoked.

FEES AND CHARGES FOR CERTAIN FEDERAL INSPECTION SERVICES

§ 68.42a Fees for certain Federal inspection services.

The following fees apply to the Federal inspection services specified below.

FEES FOR INSPECTION OF HOPS, PULSES, HAY, STRAW AND MISCELLANEOUS PROCESSED COMMODITIES

TABLE 1—HOURLY RATES

Service[1]	Regular workday (Monday-Saturday	Nonregular workday (Sunday and Holiday)
Contract (per hour per Service representative)	$18.40	$21.00
Noncontract (per hour per Service representative)	22.40	25.40

[1] Original and appeal inspection services include: grading, sampling, factor analysis, checkweighing, checkloading, condition examination, demonstration of grading, and other services requested by the applicant when perfomed at the point of service.

TABLE 2—UNIT RATES

Service[1]	Bean, pea and lentil	Hay and straw	Hops	Nongraded, Nonprocessed commodities
Lot or sample (per lot or sample)		$15.00	$22.40	
Field run (per lot or sample)	$15.00			
Other than field run (per lot or sample)	11.20			
Factor analysis (per factor)	3.75	3.75		$3.75
Extra copies of certificates (per copy)	3.00	3.00	3.00	3.00

[1] Fees apply to determinations (original or appeal) for kind, class, grade, factor analysis, and any other quality designation as defined in the official U.S. Standards or applicable instructions when performed at other than the point of service.

TABLE 3—LABORATORY FEES[1]

	Fees
Laboratory report	$3.00
Laboratory testing:	
(a) In addition to the fees if any, for sampling or other requested service a fee will be assessed for each laboratory test as follows:	
(1) Acidity Greek	6.30
(2) Acid value—oil	6.30
(3) Aflatoxin (Minicolumn method)	18.90
(4) Aflatoxin (TLC)	44.00
(5) Appearance, flavor and odor—oils	3.15
(6) Arachidic acid	12.10
(7) Ash	7.60
(8) Bacteria count	7.90
(9) Baking test—bread	18.90
(10) Baking test—cake	26.50
(11) Baking test—cookies	23.60
(12) Baume	6.30
(13) Bostwick (cooked)	12.60
(14) Bostwick (uncooked	6.30
(15) Calcium (AOAC)	7.90
(16) Calcium enrichment	7.90
(17) Carotenoid color	9.45
(18) Checked and broken macaroni units	6.30
(19) Clarity of oil involving heating	6.30
(20) Cold test—oil	6.30
(21) Coliform	18.90
(22) Color—bleached	9.45
(23) Color—gardner	3.15
(24) Color—lovibond	3.15
(25) Color—oil and shortening	3.15
(26) Congeal point	15.10
(27) Cooking test	6.30
(28) Crude fat	6.30
(29) Crude fiber	10.10
(30) Density	6.30
(31) Dextrose equivalent	18.00
(32) Diastatic activity of flour	18.90
(33) Enrichment—quick test	3.15
(34) Falling number	6.30
(35) Farinograph characteristics	23.60
(36) Fat—acid hydrolysis	12.60
(37) Fat acidity	9.45
(38) Fat stability—AOM	12.60
(39) Filth—heavy	15.60
(40) Filth—light	18.90
(41) Flash point—open and close cup	9.45
(42) Foam test	18.90
(43) Foots—heated and/or chilled	6.30
(44) Foreign material—processed grain products	9.45
(45) Free fatty acids	6.30
(46) Heating test—oil and shortening	6.30
(47) Hydrogen ion concentration pH	9.45
(48) Insoluble bromides	6.30
(49) Insoluble impurities—oil and shortening	6.30
(50) Iodine number or value	9.45
(51) Iron enrichment	12.60
(52) Linolenic acid (fatty acid profile	12.10
(53) Lipid phosphorous	47.00
(54) Loaf volume	18.90
(55) Lysine from fortification	23.10
(56) Lysine from hydrolysis of protein	12.10
(57) Maltose value—flour	18.90
(58) Marine oil in vegetable oil qualitative	6.30
(59) Melting point—Wiley	12.60
(60) Moisture—distillation	9.45
(61) Mositure—oven	4.40
(62) Moisture and volatile matter oil and shortening	6.30
(63) Neutral oil loss	18.90
(64) Nitrogen solubility index	15.70
(65) Oven leak test—oil can	9.45
(66) Oil content—oilseed	9.45
(67) Particle size—flour	14.90
(68) Performance test—prepared bakery mix	21.70
(69) Peroxid value	6.30
(70) Phosphorous	12.60
(71) Popping value—popcorn	18.90
(72) Potassium bromate—qualitative	3.15
(73) Postassium bromate—quantitative	9.45
(74) Protein dispersibility index	15.70
(75) Protein, Kjeldahl	7.30
(76) Purity—Monosodium glutamate	25.20
(77) Reducing sugars	18.90
(78) Refractive index	9.45
(79) Riboflavin	25.20

TABLE 3—LABORATORY FEES [1]—Continued

	Fees
(80) Rope spore count	31.50
(81) Salmonella	37.00
(82) Salt content	9.45
(83) Saponification number	9.45
(84) Sedimentation	15.70
(85) Sieve test	4.40
(86) Smoke point	9.45
(87) Softening point	12.60
(88) Solid fat index	21.80
(89) Specific baking volume—cake mix	21.80
(90) Specific gravity—oils	12.60
(91) Starch damage—flour	14.90
(92) Staphylococcus aureas	24.50
(93) Sucrose	18.90
(94) Test weight per bushel—other than grain	2.60
(95) Tilletia conteversa Kuhn(TCK)	25.20
(96) Unsaponifiable matter	12.60
(97) Urease activity	9.45
(98) Viscosity	12.60
(99) Water soluble protein	15.70
(100) Xanthydrol test for rodent urine	12.60
(101) Other laboratory tests	([2])
(b) If a requested test is to be reported on a specified moisture basis, a fee for moisture test will also be assessed.	

[1] When laboratory testing service is provided for FGIS by a private laboratory, the applicant will be assessed a fee which, as nearly as practicable, covers the costs to FGIS for the service provided.

[2] Fees for other laboratory tests not referenced above will be based on the noncontract hourly rate listed in Table 1.

(Secs. 203, 205, ch. 966 title II, Stat. 1087, 1090, as amended; 7 U.S.C. 1622, 1624)

[49 FR 26550, June 28, 1984; 49 FR 27731, July 6, 1984]

§ 68.42b Fees for certain Federal rice inspection services.

The fees shown in tables 1 and 2 apply to Federal rice inspection services.

FEES FOR FEDERAL RICE INSPECTION SERVICES

TABLE 1—HOURLY RATES

Service [1]	Regular workday (Monday-Saturday)	Nonregular workday (Sunday and Holiday)
Contract (per hour per Service representative)	$26.40	$39.40
Noncontract (per hour per Service representative)	$34.40	$48.00

[1] The hourly rate includes sampling, grading, weighing and other services requested by the applicant when performed at the point of service.

TABLE 2—UNIT RATES

Service [1]	Rough rice	Brown rice for processing	Milled rice
Inspection for quality (per lot, sublot, or sample inspection)	$23.00	$20.00	$14.30
Factor analysis for any single factor (per factor)	8.60	8.60	8.60
Interpretive line samples:[2]			
(a) Milling degree (per set)			60.00
(b) Parboiled light (per sample)			15.00
Extra copies of certificates (per copy)	3.00	3.00	3.00

[1] Fees apply to determinations (original or appeals) for kind, class, grade, factor analysis, equal to type, milling yield, or any other quality designation as defined in the U.S. Standards for Rice or applicable instructions, whether performed singly or combined at other than the point of service.

[2] Interpretive line samples may be purchased from the U.S. Department of Agriculture, Federal Grain Inspection Service, Field Management Division, Board of Appeals and Review, Richards-Gebaur AFB, Building #221, Grandview, MO 64030. Interpretive line samples also are available for examination at selected FGIS field offices. A list of field offices may be obtained from the Deputy Director, Field Management Division, USDA, FGIS, Washington, DC 20250.

The interpretive line samples illustrate the lower limit for milling degrees only and the color limit for the factor "Parboiled Light" rice.

(Secs. 203, 205, ch. 966 title II, Stat. 1087, 1090, as amended; 7 U.S.C. 1622, 1624)

[49 FR 26550, June 28, 1984]

§ 68.43 Explanation of service fees and additional fees.

(a) *Definitions relating to the fees.* The following definitions shall apply to the terms used in §§ 68.42a and 68.42b.

(1) Regular workday shall mean any Monday through Saturday that is not a holiday.

(2) Nonregular workday is any Sunday or holiday.

(3) Holiday shall mean the legal public holidays specified in paragraph (a) of section 6103, Title 5, of the United States Code (5 U.S.C. 6103(a)) and any other day declared to be a holiday by Federal Statute or Executive Order. Under section 6103 and Executive Order 10357, as amended, if the specified legal public holiday falls on a Saturday, the preceding Friday shall be considered to be the holiday, or if the specified legal public holiday falls on a Sunday, the following Monday shall be considered to be the holiday.

(4) Service representative shall mean an authorized employee of the Service

or a person licensed by the Administrator.

(5) Contract service shall mean any service performed under a contract between an applicant and the Federal Grain Inspection Service.

(b) *Costs included in the fees.* Fees for official services in §§ 68.42a and 68.42b include: (1) The cost of performing the service and related supervision and administration costs; (2) the cost of per diem, subsistence, mileage or commercial transportation to perform the service; (3) the cost of first class mail service; (4) the cost of overtime and premium pay; and (5) the cost of certification except as provided in § 68.43(d).

(c) *Computing hourly rates.* Hourly fees will be assessed in quarter hour increments for: (1) Travel from the FGIS field office or assigned duty location to the service point and return; and (2) the performance of the requested service, less mealtime.

(d) *Additional fees.* Fees in addition to the applicable hourly or unit fee will be assessed when: (1) An applicant requests more than the original and three copies of a certificate; (2) an applicant requests onsite typing of certificates or typing of certificates at the FGIS field office during other than normal working hours; and (3) an applicant requests the use of express-type mail or courier service.

(e) *Application of fees when service is delayed by the applicant.* Hourly fees will be assessed when: (1) Service has been requested at a specified location; (2) a Service representative is on duty and ready to provide service, but is unable to do so because of a delay not caused by the Service; and (3) FGIS officials determine that the Service representative(s) cannot be utilized elsewhere or cannot be released without cost to the Service.

(f) *Application of fees when an application for service is withdrawn or dismissed.* Hourly fees will be assessed to the applicant for the scheduled service if the request is withdrawn or dismissed after the Service representative departs for the service point, or if the request for service is not withdrawn or dismissed by 2 p.m. of the business day preceding the date of scheduled service. However, hourly fees will not be assessed to the applicant if the FGIS officials determine that the Service representative can be utilized elsewhere or if the Service representative can be released without cost to the Service.

(g) *To whom fees are assessed.* Fees for official services including additional fees as provided in § 68.43(d) shall be assessed to and paid by the applicant for the services.

(h) *Advance payment.* As necessary, the Administrator may require that fees shall be paid in advance of the performance of the requested service. Any fees paid in excess of the amount due shall be used to offset future billings, unless a request for a refund is made by the applicant.

(i) *Time and form of payment*—(1) *Fees for Federal inspection service.* Bills for fees assessed under the regulations for official services performed by FGIS shall be paid by check, draft, or money order, payable to U.S. Department of Agriculture, Federal Grain Inspection Service.

(2) *Fees for Federal-cooperator inspection service.* Fees for inspection services pursuant to a cooperative agreement shall be paid by the applicant in accordance with the terms of such agreement.

(Secs. 203, 205, ch. 966 title II, Stat. 1087, 1090, as amended; 7 U.S.C. 1622, 1624)

[49 FR 26551, June 28, 1984]

§§ 68.44—68.47 [Reserved]

§ 68.48 Refunds.

The Director will cause to be refunded to any State or person who is a party to a cooperative agreement with the United States for inspection services, and to any applicant for inspection service, any fees and charges remitted in excess of the amount due the United States.

MISCELLANEOUS

§ 68.49 Publications.

Publications under the acts and the regulations in this part may be made in the FEDERAL REGISTER, and such other media as the Administrator may approve for the purpose.

[42 FR 12035, Mar. 2, 1977, as amended at 47 FR 34516, Aug. 10, 1982]

§ 68.50 Filing of final orders in proceedings to deny inspection service or to suspend or revoke licenses.

All final orders in any proceeding to deny the benefits of the acts to any person or to suspend or revoke a license (except orders required for good cause to be held confidential and not cited as precedents) shall be filed with the Hearing Clerk of the Department and be available to public inspection.

§ 68.51 Inspection records confidential.

Unless otherwise provided by the regulations in this part or, by other regulations of the Department, records of any inspections, including but not limited to, copies of any inspection, or appeal inspection certificates issued, records of such certificates, applicant's accounts, or other information relating to the work of any office of inspection shall not be made available to, or be opened for examination by, any person who is not connected with the inspection service provided by the regulations in this part, and such records shall be held strictly confidential and for reference only by the Director, the inspector in charge of such office of inspection, his assistants, and such inspector's supervising inspector. Summarized reports which do not disclose the operations of any individual grower, shipper, or other interested party and which are identified clearly as to source and contents may be released to the public: *Provided*, That, when so released, they shall be published in such manner and in such media as will make the information available alike to all interested parties.

[13 FR 9479, Dec. 31, 1948; 19 FR 57 Jan. 6, 1954, as amended at 34 FR 5710, Mar. 27, 1969]

§ 68.52 Political activity.

All inspectors are forbidden, during the period of their appointments or licenses to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. In addition to licensees, this applies to all appointees, including, but not being limited to, temporary and cooperative employees, and employees on leave of absence with or without pay. Willful violation of this section will constitute grounds for dismissal or other disciplinary action in the case of appointees, and suspension or revocation of licenses in the case of licensees.

§ 68.53 Identification.

All inspectors and official samplers shall have in their possession and present upon request, while on duty, the means of identification furnished to them by the Department.

§ 68.54 Loaning of samples.

In the discretion of the Director, limited numbers of samples illustrating the United States standards under the Acts, or specially prepared exhibits illustrating any part of such standards, may be loaned by the Department without charge to governmental agencies for official purposes or to educational institutions of higher learning and to trade organizations for demonstration purposes.

[25 FR 9362, Sept. 30, 1960]

Subpart B—U.S. Standards for Beans [1]

SOURCE: 34 FR 7863, May 17, 1969, unless otherwise noted.

TERMS DEFINED

§ 68.101 Beans.

Beans shall be dry threshed field and garden beans, whole, broken, and split, commonly used for edible purposes.

§ 68.102 Classes. [2]

Beans shall be divided into classes as follows, each of which, except Mixed beans, may contain not more than 2.0 percent of beans of contrasting classes and not more than 15.0 percent of beans of other classes that blend:

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[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal Laws.

[2] The use of a variety name in the designation of the class of beans does not imply any guarantee of varietal purity.

Pea beans (the type as grown in the Great Lakes region known also as Navy beans).
Blackeye beans (cowpeas of the Blackeye variety).
Cranberry beans (known also as Speckled Cranberry and Horticultural Pole).
Yelloweye beans.
Pinto beans (including the Mexican Pinto type but not the type known as Spotted Red Mexican).
Marrow beans (not including Red Marrow).
Great Northern beans.
Small White beans (the type as grown on the Pacific coast, not including Tepary beans).
Flat Small White beans (the type as grown in northern Idaho).
White Kidney beans.
Light Red Kidney beans.
Dark Red Kidney beans.
Small Red beans (known also as Red Mexican, California Red, and Idaho Red).
Pink beans.
Black Turtle Soup beans.
Mung beans.

Miscellaneous beans: Beans that are not otherwise classified in these standards shall be classified and designated according to the commonly accepted commercial name of such beans.

Large Lima beans (characteristic of the Large White Pole and Burpee Bush Lima type).
Baby Lima beans (characteristic of Small White Lima beans of the Henderson Bush and similar types).

Miscellaneous Lima beans: Lima beans that do not come within the classes Large Lima or Baby Lima shall be classified and designated according to their commonly accepted commercial name.

Mixed beans: Mixed beans shall be any mixture of beans not provided for in the classes listed above.

§ 68.103 Grades.

Grades shall be the numerical grades, substandard grades, sample grades, and special grades provided for in § 68.133 through § 68.142.

[47 FR 19310, May 5, 1982]

§ 68.104 Sound beans.

Sound beans shall be beans that are free from defects.

§ 68.105 Defects.

Defects for the classes Baby Lima and Miscellaneous Lima beans shall be damaged beans, contrasting classes, and foreign material. Defects for all other classes of beans shall be splits, damaged beans, contrasting classes, and foreign material.

§ 68.106 Splits.

Splits shall be pieces of beans that are not damaged, each of which consists of three-fourths or less of the whole bean, and shall include any sound bean the halves of which are held together loosely.

§ 68.107 Damaged beans.

Damaged beans shall be beans and pieces of beans that are damaged by frost, weather, disease, weevils or other insects, or other causes.

§ 68.108 Badly damaged beans.

Badly damaged beans shall be beans and pieces of beans that are materially damaged or discolored by frost, weather, disease, weevils or other insects, or other causes so as to materially affect the appearance and quality of the beans.

§ 68.109 Foreign material.

Foreign material shall be stones, dirt, weed seeds, cereal grains, lentils, peas, and all matter other than beans.

[44 FR 73007, Dec. 17, 1979]

§ 68.110 Stones.

Stones shall be concreted earthy or mineral matter, and other substances of similar hardness that do not disintegrate readily in water.

§ 68.111 Contrasting classes.

Contrasting classes shall be beans of other classes that are of a different color, size, or shape from the beans of the class designated.

§ 68.112 Classes that blend.

Classes that blend shall be sound beans of other classes that are similar in color, size, and shape to the beans of the class designated, and shall include white beans in the class

Yelloweye which are similar in size and shape to the Yelloweye beans.

§ 68.113 Broken beans.

Broken beans shall be sound beans with some but less than one-fourth of each bean broken off or with one-fourth or more of the seedcoat removed.

§ 68.114 Blistered beans.

Blistered beans shall be sound beans with badly blistered or burst seedcoats.

§ 68.115 Wrinkled beans.

Wrinkled beans shall be sound beans that have deeply wrinkled seedcoats and/or are badly warped or misshapen.

§ 68.116 Weevily beans.

Weevily beans shall be beans that are infested with live weevils or other insects injurious to stored beans or that contain weevil-bored beans.

§ 68.117 Clean-cut weevil-bored beans.

Clean-cut weevil-bored beans shall be beans from which weevils have emerged, leaving a clean-cut open cavity free from larvae, webbing, refuse, mold, or stain.

§ 68.118 Well screened.

Well screened, as applied to the general appearance of beans, shall mean that the beans are uniform in size and are practically free from such small, shriveled, underdeveloped beans, splits, broken beans, large beans, and foreign material that can be removed readily by the ordinary process of milling or screening through the proper use of sieves.

§ 68.119 [Reserved]

§ 68.120 $^{30}/_{64}$ sieve.

A $^{30}/_{64}$ sieve shall be a metal sieve 0.0319-inch thick perforated with round holes 0.4687 ($^{30}/_{64}$) inch in diameter which are $^{11}/_{16}$ inch from center to center. The perforations of each row shall be staggered in relation to the adjacent rows.

§ 68.121 $^{28}/_{64}$ sieve.

A $^{28}/_{64}$ sieve shall be a metal sieve 0.0319-inch thick perforated with round holes 0.4375 ($^{28}/_{64}$) inch in diameter which are $^{19}/_{32}$ inch from center to center. The perforations of each row shall be staggered in relation to the adjacent rows.§ 68.122

§ 68.122 $^{24}/_{64}$ sieve.

A $^{24}/_{64}$ sieve shall be a metal sieve 0.0319-inch thick perforated with round holes 0.3750 ($^{24}/_{64}$) inch in diameter which are $^{17}/_{32}$ inch from center to center. The perforations of each row shall be staggered in relation to the adjacent rows.

§§ 68.123–68.129 [Reserved]

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 68.130 Basis of determination.

The determination of "color" including "off-color" shall be upon the basis of the beans after the removal of defects. All other determinations shall be upon the basis of the beans as a whole.

§ 68.131 Percentages.

All percentages shall be determined upon the basis of weight, and shall be stated in terms of whole, tenths, and hundredths of a percent as required for individual factors.

§ 68.132 Moisture.

Moisture shall be determined by the use of equipment and procedures prescribed by the Federal Grain Inspection Service, U.S. Department of Agriculture, or determined by any method that gives equivalent results. (Information thereon may be obtained from said Service.)

[34 FR 7863, May 17, 1969, as amended at 47 FR 34516, Aug. 10, 1982]

§ 68.133 Grades, grade requirements, special grades and special grade requirements for the class Pea Beans.

GRADES, GRADE REQUIREMENTS, GRADE DESIGNATIONS, SPECIAL GRADES AND SPECIAL GRADE REQUIREMENTS

SPECIAL GRADE and GRADE	GENERAL APPEAR-ANCE	PERCENT MAXIMUM LIMITS OF ---						
		MOISTURE 1./	TOTAL DEFECTS (Total damaged, Total foreign material, Contrasting classes, Splits)	BADLY DAMAGED	FOREIGN MATERIAL		CON-TRASTING CLASSES 2./	CLASSES THAT BLEND 3./
					TOTAL (includes Stones)	STONES		
U.S. Choice Handpicked	SHALL NOT GRADE OFF-COLOR	18.0	1.5	0.3	0.01	0.01	0.01	2.0
U.S. Prime Handpicked		18.0	3.0	0.3	0.01	0.01	0.01	2.0
U.S. No. 1		18.0	2.0	2.0	0.4	0.2	0.5	4.0
U.S. No. 2	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER THE REMOVAL OF TOTAL DEFECTS	18.0	3.0	3.0	0.8	0.4	1.0	4.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. Choice Handpicked through U.S. No. 2 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.					
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass, or metal fragments; or which are otherwise of distinctly low quality.					

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are classed Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are classed Mixed beans.

[47 FR 19310, May 5, 1982; 47 FR 20545, May 13, 1982]

§ 68.134 Grades and grade requirements for the class Blackeye Beans.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---							
		MOISTURE 1./	TOTAL DEFECTS (Total damaged, Total foreign material, Contrasting classes, Splits)	TOTAL DAMAGED	CLEAN CUT WEEVIL BORED 2./	FOREIGN MATERIAL		CONTRASTING CLASSES 3./	CLASSES THAT BLEND 4./
						TOTAL (includes Stones)	STONES		
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	4.0	2.0	0.0	0.5	0.2	0.5	5.0
U.S. No. 2		18.0	6.0	4.0	0.2	1.0	0.4	1.0	10.0
U.S. No. 3		18.0	8.0	6.0	0.5	1.5	0.6	2.0	15.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.						
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered or weevily; which have any commercially objectionable odor; which contain insect webbing, or filth, animal filth, or any unknown foreign substance, broken glass, or metal fragments; or which are otherwise of distinctly low quality.						

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 0.5 percent clean cut weevil bored beans are graded U.S. Sample grade.
3./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
4./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

[47 FR 19310, May 5, 1982; 47 FR 20546, May 13, 1982]

§ 68.135 Grades and grade requirements for the classes Yelloweye Beans and Cranberry Beans.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---							
					FOREIGN MATERIAL				
		MOISTURE 1./	TOTAL DEFECTS (Total damage, Total foreign material, Contrasting classes, Splits)	TOTAL DAMAGE	TOTAL (Includes Stones)	STONES	CONTRASTING CLASSES 2./	CLASSES THAT BLEND 3./	IN ADDITION TO CLASSES THAT BLEND, WHITE BEANS SIMILAR IN SIZE AND SHAPE IN THE CLASS YELLOWEYE BEANS
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	4.0	2.0	0.5	0.2	0.5	5.0	5.0
U.S. No. 2		18.0	6.0	4.0	1.0	0.4	1.0	10.0	5.0
U.S. No. 3		18.0	8.0	6.0	1.5	0.6	2.0	15.0	---
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3, or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.						
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments; or which are otherwise of distinctly low quality.						

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

[47 FR 19311, May 5, 1982; 47 FR 20547, May 13, 1982]

§ 68.136 Grades and grade requirements for the class Pinto Beans.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---						
		MOISTURE 1./	TOTAL DEFECTS (Total damaged, Total foreign material Contrasting classes, Splits)	TOTAL DAMAGED	FOREIGN MATERIAL		CONTRASTING CLASSES 2./	CLASSES THAT BLEND 3./
					TOTAL (includes Stones)	STONES		
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	3.0	3.0	0.5	0.2	0.5	5.0
U.S. No. 2		18.0	5.0	5.0	1.0	0.4	1.0	10.0
U.S. No. 3		18.0	7.0	7.0	1.5	0.6	2.0	15.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 and U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.					
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass, or metal fragments; or which are otherwise of distinctly low quality.					

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

[47 FR 19311, May 5, 1982; 47 FR 20548, May 13, 1982]

§ 68.137 Grades and grade requirements for the classes Marrow, Great Northern, Small White, Flat Small White, White Kidney, Light Red Kidney, Dark Red Kidney, Small Red, Pink, Black Turtle Soup, and miscellaneous Beans.

GRADE	GENERAL APPEAR-ANCE	PERCENT MAXIMUM LIMITS OF ---						
		MOISTURE 1./	TOTAL DEFECTS (Total damaged, Total foreign material, Contrasting classes, Splits)	TOTAL DAMAGED	FOREIGN MATERIAL		CONTRASTING CLASSES 2./	CLASSES THAT BLEND 3./
					TOTAL (includes Stones)	STONES		
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	2.0	2.0	0.5	0.2	0.5	5.0
U.S. No. 2		18.0	4.0	4.0	1.0	0.4	1.0	10.0
U.S. No. 3		18.0	6.0	6.0	1.5	0.6	2.0	15.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 or Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.					
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments; or which are otherwise of distinctly low quality.					

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

[47 FR 19312, May 5, 1982; 47 FR 20549, May 13, 1982]

§ 68.138 Grades and grade requirements for the class Mung Beans.

		PERCENT MAXIMUM LIMITS OF ---							
GRADE	GENERAL APPEAR-ANCE	MOISTURE 1./	TOTAL DEFECTS (Total damaged, Total foreign material, Contrasting classes, Splits)	TOTAL DAMAGED	CLEAN-CUT WEEVIL BORED 2./	FOREIGN MATERIAL		CONTRASTING CLASSES 3./	CLASSES THAT BLEND 4./
						TOTAL (includes Stones)	STONES		
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	2.0	2.0	0.1	0.5	0.2	0.5	5.0
U.S. No. 2		18.0	4.0	4.0	0.2	1.0	0.4	1.0	10.0
U.S. No. 3		18.0	6.0	6.0	0.5	1.5	0.6	2.0	15.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the grade requirements for the grades U.S. No. 1 through U.S. No. 3 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.						
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments or are otherwise of distinctly low quality.						

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 0.5 percent clean cut weevil bored beans are graded U.S. Sample grade.
3./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
4./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

[47 FR 19312, May 5, 1982; 47 FR 20550, May 13, 1982]

§ 68.139 Grades and grade requirements for the class Large Lima Beans.

GRADE	GENERAL APPEAR-ANCE	PERCENT MAXIMUM LIMITS OF ---											
		MOISTURE 1./	TOTAL BLISTERED WRINKLED AND DEFECTS (Blistered, wrinkled, Total damage, Total foreign material, Contrasting classes, Splits)	DAMAGED BEANS		FOREIGN MATERIAL		CONTRASTING CLASSES 2./	SPLITS	BROKENS	CLASSES THAT BLEND 3./	BEANS THROUGH A SIEVE	
				TOTAL	BADLY DAMAGED	TOTAL (includes Stones)	STONES					28/64"	24/64"
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	6.0	2.0	0.5	0.5	0.2	0.5	3.0	5.0	5.0	25	5
U.S. No. 2		18.0	9.0	3.0	1.0	1.0	0.3	1.0	5.0	5.0	10.0	40	5
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 2 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.										
U.S. Sample Grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments; or which are otherwise of distinctly low quality.										

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

[47 FR 19312, May 5, 1982; 47 FR 20551, May 13, 1982]

§ 68.140 Grades and grade requirements for the classes Baby Lima and miscellaneous Lima Beans.

GRADE	GENERAL APPEAR-ANCE	PERCENT MAXIMUM LIMITS OF ---								
		MOISTURE 1./	TOTAL DEFECTS (Total damage, Total foreign material, Contrasting classes)	BADLY DAMAGED	FOREIGN MATERIAL		CONTRASTING CLASSES 2./	BLISTERED WRINKLED AND/OR BROKEN	SPLITS	CLASSES THAT BLEND 3./
					TOTAL (includes Stones)	STONES				
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	2.0	1.0	0.5	0.2	0.5	3.0	3.0	5.0
U.S. No. 2		18.0	3.0	1.5	1.0	0.3	1.0	5.0	5.0	10.0
U.S. No. 3		18.0	5.0	2.0	1.5	0.6	2.0	8.0	8.0	15.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 and U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.							
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments; or which are otherwise of distinctly low quality.							

1./ Beans with more than 18.0 percent moisture are graded High moisture.
2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

[47 FR 19313, May 5, 1982; 47 FR 20552, May 13, 1982]

§ 68.141 Grade designations.

The grade designation for all classes of beans shall include in the following order: (a) The letters "U.S."; (b) the name or number of the grade or the name of any applicable special grade designation as appears in § 68.142 (a) and (b); (c) the class, and in the case of Mixed beans, the name and percentage of each class in the mixture; and (d) the special grade designations, if applicable, as appears in § 68.142 (c) and (d). In addition, the designation for the grade "U.S. Substandard" shall include the percentage of sound beans. Mixed beans shall be graded according to the grade requirements of the class of beans which predominates in the mixture. The factors of contrasting classes, classes that blend and sieve size requirements in the class Large Lima beans shall be disregarded in Mixed beans.

[47 FR 19313, May 5, 1982]

§ 68.142 Special grade designations.

(a) *Choice handpicked.* The special grade designation "Choice handpicked" shall be applicable only to the class Pea beans. The "Choice handpicked" designation shall include in the following order: (1) The letters "U.S."; (2) the words "Choice handpicked"; and (3) "Pea beans".

(b) *Prime handpicked.* The special grade designation "Prime handpicked" is applicable only to the class Pea beans. The "Prime handpicked" designation shall include in the following order: (1) The letters "U.S."; (2) the words "Prime handpicked"; and (3) "Pea beans".

(c) *High moisture.* The special grade designation "High moisture" is applicable to all classes of beans containing over 18.0 percent moisture. The words "high moisture" and the percentage of moisture shall follow the class name.

(d) *Off-color.* The special grade designation "Off-color" shall be applicable to all classes of beans that upon the removal of total defects, are distinctly off-color due to age or any other natural cause but are not materially weathered. The words "off-color" shall follow the name of the class. The special grades "Choice Handpicked", "Prime Handpicked", and the grade "U.S. No. 1", in the class Pea beans shall not be applied if the beans are determined to be off-color.

[47 FR 19313, May 5, 1982]

Subpart C—United States Standards for Rough Rice[1]

SOURCE: 42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, unless otherwise noted.

TERMS DEFINED

§ 68.201 Definition of rough rice.

Rice (*Oryza sativa* L.) which consists of 50 percent or more of paddy kernels (see § 68.202(i)) of rice.

§ 68.202 Definition of other terms.

For the purposes of these standards, the following terms shall have the meanings stated below:

(a) *Broken kernels.* Kernels of rice which are less than three-fourths of whole kernels.

(b) *Chalky kernels.* Whole or large broken kernels of rice which are one-half or more chalky.

(c) *Classes.* The following four classes:

Long-Grain Rough Rice
Medium-Grain Rough Rice
Short-Grain Rough Rice
Mixed Rough Rice

Classes shall be based on the percentage of whole kernels, large broken kernels, and types of rice.

(1) "Long grain rough rice" shall consist of rough rice which contains more than 25 percent of whole kernels and which after milling to a well-milled degree, contains not more than 10 percent of whole or broken kernels of medium- or short-grain rice.

(2) "Medium-grain rough rice" shall consist of rough rice which contains more than 25 percent of whole kernels and which after milling to a well-milled degree, contains not more than 10 percent of whole or large broken kernels of long-grain rice or whole kernels of short-grain rice.

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[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

(3) "Short-grain rough rice" shall consist of rough rice which contains more than 25 percent of whole kernels and which, after milling to a well-milled degree, contains not more than 10 percent of whole or large broken kernels of long-grain rice or whole kernels of medium-grain rice.

(4) "Mixed rough rice" shall consist of rough rice which contains more than 25 percent of whole kernels and which, after milling to a well-milled degree, contains more than 10 percent of "other types" as defined in paragraph (h) of this section.

(d) *Damaged kernels.* Whole or broken kernels of rice which are distinctly discolored or damaged by water, insects, heat, or any other means, and whole or large broken kernels of parboiled rice in non-parboiled rice. "Heat-damaged kernels" (see paragraph (e) of this section) shall not function as damaged kernels.

(e) *Heat-damaged kernels.* Whole or large broken kernels of rice which are materially discolored and damaged as a result of heating, and whole or large broken kernels of parboiled rice in nonparboiled rice which are as dark as, or darker in color than, the interpretive line for heat-damaged kernels.

(f) *Milling yield.* An estimate of the quantity of whole kernels and total milled rice (whole and broken kernels combined) that are produced in the milling of rough rice to a well-milled degree.

(g) *Objectionable seeds.* Seeds other than rice, except seeds of *Echinochloa crusgalli* (commonly known as barnyard grass, watergrass, and Japanese millet).

(h) *Other types.* (1) Whole kernels of: (i) Long-grain rice in medium- or short-grain rice, (ii) medium-grain rice in long- or short-grain rice, (iii) short-grain rice in long- or medium-grain rice, and (2) Large broken kernels of long-grain rice in medium- or short-grain rice and large broken kernels of medium- or short-grain rice in long-grain rice.

NOTE: Broken kernels of medium-grain rice in short-grain rice and large broken kernels of short-grain rice in medium-grain rice shall not be considered other types.

(i) *Paddy kernels.* Whole or broken unhulled kernels of rice.

(j) *Red rice.* Whole or large broken kernels of rice on which there is an appreciable amount of red bran.

(k) *Seeds.* Whole or broken seeds of any plant other than rice.

(l) *Smutty kernels.* Whole or broken kernels of rice which are distinctly infected by smut.

(m) *Types of rice.* The following three types:

Long grain
Medium grain
Short grain

Types shall be based on the length-width ratio of kernels of rice that are unbroken and the width, thickness, and shape of kernels of rice that are broken as set forth in the Rice Inspection Handbook.[1]

(n) *Ungelatinized kernels.* Whole or large broken kernels of parboiled rice with distinct white or chalky areas due to incomplete gelatinization of the starch.

(o) *Whole and large broken kernels.* Rice (including seeds) that (1) passes over a 6 plate (for southern production), or (2) remains on top of a 6 sieve (for western production).

(p) *Whole kernels.* Unbroken kernels of rice and broken kernels of rice which are at least three-fourths of an unbroken kernel.

(q) *6 sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0938 (6/64) inch in diameter.

(r) *6 plate.* A laminated metal plate 0.142-inch thick, with a top lamina 0.051-inch thick, perforated with rows of round holes 0.0938 (6/64) inch in diameter, and a bottom lamina 0.091-inch thick, without perforations.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982]

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 68.203 Basis of determination.

The determination of seeds, objectionable seeds, heat-damaged kernels, red rice and damaged kernels, chalky kernels, other types, color, and the special grade Parboiled rough rice shall be on the basis of the whole and large broken kernels of milled rice that are produced in the milling of rough rice to a well-milled degree. When determining class, the percentage of (a) whole kernels of rough rice shall be determined on the basis of the original sample, and (b) types of rice shall be determined on the basis of the whole and large broken kernels of milled rice that are produced in the milling of rough rice to a well-milled degree. Smutty kernels shall be determined on the basis of the rough rice after it has been cleaned and shelled as set forth in the Rice Inspection Handbook,[2] or by any method that is approved by the Administrator as giving equivalent results.[3] All other determinations shall be on the basis of the original sample. Mechanical sizing of kernels shall be adjusted by handpicking as set forth in the Rice Inspection Handbook HB 918-11,[2] or by any method that is approved by the Administrator as giving equivalent results.[3]

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[1] Publications referenced in these standards will be made available upon request to the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982]

§ 68.204 Temporary modifications in equipment and procedures.

The equipment and procedures referred to in the rough rice standards are applicable to rice produced and harvested under normal environmental conditions. Abnormal environmental conditions during the production and harvest of rice may require minor temporary modifications in the equipment or procedures to obtain results expected under normal conditions. When these adjustments are necessary, Federal Grain Inspection Service Field Offices, official inspection agencies, and interested parties in the rice industry will be notified promptly in writing of the modification. These modifications shall not include changes in interpretations of identity, class, quality, or condition.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982]

§ 68.205 Interpretive line samples.

Interpretive line samples showing the official scoring line for factors that are determined by visual examinations shall be maintained by the Federal Grain Inspection Service, U.S. Department of Agriculture, and shall be available for reference in all inspection offices that inspect and grade rice.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982]

§ 68.206 Milling requirements.

In determining milling yield (see § 68.202(f)) in rough rice, the degree of milling shall be equal to, or better than, that of the interpretive line sample for "well-milled" rice.

§ 68.207 Milling yield determination.

Milling yield shall be determined by the use of an approved device in accordance with procedures prescribed in the Rice Inspection Handbook, and the Equipment Manual.[2] For the purpose of this paragraph, "approved device" shall include the McGill Miller No. 3 and any other equipment that is approved by the Administrator as giving equivalent results.[3]

NOTE: Milling yield shall not be determined when the moisture content of the rough rice exceeds 18.0 percent.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982]

§ 68.208 Moisture.

Water content in rough rice as determined by an approved device in accordance with procedures prescribed in the Rice Inspection Handbook,[2] for the purpose of this paragraph, "approved device" shall include the Motomco Moisture Meter and any other equipment that is approved by the Administrator as giving equivalent results.[3]

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[2] See footnote 2 to § 68.202.

[3] Requests for information concerning approved devices and procedures, criteria for

Continued

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982]

§ 68.209 Percentages.

Percentages shall be determined on the basis of weight and shall be rounded off as follows:

(a) When the figure to be rounded is followed by a figure greater than 5, round to the next higher figure; e.g., 0.46, report as 0.5.

(b) When the figure to be rounded is followed by a figure less than 5, round to the next lowest figure; e.g., 0.54, report as 0.5.

(c) When the figure to be rounded is followed by the figure 5, round to the nearest even figure; e.g., 0.45, report as 0.4; 0.55, report as 0.6.

All percentages, except for milling yield, shall be stated in whole and tenth percent to the nearest tenth percent. Milling yield shall be stated to the nearest whole percent.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 68.210 Grades and grade requirements for the classes of rough rice.

(See also § 68.212.)

Grade	Maximum limits of—						Color requirements[1]
	Seeds and heat-damaged kernels		Red rice and damaged kernels (singly or combined) (Percent)	Chalky kernels		Other types[2] (Percent)	
	Total (singly or combined) (Number in 500 grams)	Heatdamaged kernels and objectionalbe seeds (singly or combined) (Number in 500 grams)		in long-gran rice (Percent)	in medium or short grain rice (Percent)		
U.S. No. 1	4	3	0.5	1.0	2.0	1.0	Shall be white or creamy.
U.S. No. 2	7	5	1.5	2.0	4.0	2.0	May be slightly gray.
U.S. No. 3	10	8	2.5	4.0	6.0	3.0	May be light gray.
U.S. No. 4	27	22	4.0	6.0	8.0	5.0	May be gray or slightly rosy.
U.S. No. 5D37	32	6.0	10.0	10.0	10.0	May be dark gray or rosy.	
U.S. No. 6	75	75	[3]15.0	15.0	15.0	10.0	May be dark gray or rosy.

U.S. Sample grade shall be rough rice which: (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 6 inclusive, (b) contains more than 14.0 percent of moisture, (c) is musty, or sour, or heating, (d) has any commercially objectionable foreign odor, or (e) is otherwise of distinctly low quality..

[1] For the special grade Parboiled rough rice see § 68.212(a).

[2] These limits do not apply to the class Mixed Rough Rice.

[3] Rice in grade U.S. No. 6 shall contain not more than 6.0 percent of damaged kernels.

§ 68.211 Grade designation.

(a) The grade designation for all classes of rough rice, except Mixed Rough Rice, shall include in the following order: (1) The letters "U.S."; (2) the number of the grade or the words "Sample grade," as warranted; (3) the words "or better" when applicable and requested by the applicant prior to inspection; (4) the class; (5) each applicable special grade (see § 68.213); and (6) a statement of the milling yield.

(b) The grade designation for the class Mixed Rough Rice shall include, in the following order: (1) The letters "U.S."; (2) the number of the grade or the words "Sample grade," as warrant-

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approved devices, and request for approval of devices should be directed to the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, D.C. 20250.

ed; (3) the words "or better," when applicable and requested by the applicant prior to inspection; (4) the class; (5) each applicable special grade (see § 68.213); (6) the percentage of whole kernels of each type in the order of predominance; (7) the percentage of large broken kernels of each type in the order of predominance; (8) the percent of material removed by the No. 6 sieve or the No. 6 sizing plate; (9) when applicable, the percentage of seeds; and (10) a statement of the milling yield.

NOTE: Large broken kernels other than long-grain, in Mixed Rough Rice, shall be certificated as "medium or short grain."

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 68.212 Special grades and requirements.

A special grade, when applicable, is supplemental to the grade assigned under § 68.210. Such special grades for rough rice are established and determined as follows:

(a) *Parboiled rough rice.* Parboiled rough rice shall be rough rice in which the starch has been gelatinized by soaking, steaming, and drying. Grades U.S. No. 1 to U.S. No. 6 inclusive, shall contain not more than 10.0 percent of ungelatinized kernels. Grades U.S. No. 1 and U.S. No. 2 shall contain not more than 0.1 percent, grades U.S. No. 3 and U.S. No. 4 not more than 0.2 percent, and grades U.S. No. 5 and U.S. No. 6 not more than 0.5 percent of nonparboiled rice. If the rice is: (1) Not distinctly colored by the parboiling process, it shall be considered "Parboiled Light"; (2) distinctly but not materially colored by the parboiling process, it shall be considered "Parboiled"; (3) materially colored by the parboiling process, it shall be considered "Parboiled Dark." The color levels for "Parboiled Light," "Parboiled," and "Parboiled Dark" rice shall be in accordance with the interpretive line samples for parboiled rice.

NOTE: The maximum limits for "Chalky kernels," "Heat-damaged kernels," "Kernels damaged by heat," and the "Color requirements" shown in § 68.210 are not applicable to the special grade "Parboiled rough rice."

(b) *Smutty rough rice.* Smutty rough rice shall be rough rice which contains more than 3.0 percent of smutty kernels.

(c) *Weevily rough rice.* Weevily rough rice shall be rough rice which is infested with live weevils or other live insects injurious to stored rice.

§ 68.213 Special grade designation.

The grade designation for parboiled, smutty, or weevily rough rice shall include, following the class, the word(s) "Parboiled Light," "Parboiled," "Parwarranted, and all other information boiled Dark," "Smutty," or "Weevily," as warranted, and all other information prescribed in § 68.211.

Subpart D—U.S. Standards for Brown Rice for Processing[1]

SOURCE: 42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, unless otherwise noted.

TERMS DEFINED

§ 68.251 Definition of brown rice for processing.

Rice (*Oryza sativa* L.) which consists of more than 50.0 percent of kernels of brown rice, and which is intended for processing to milled rice.

§ 68.252 Definition of other terms.

For the purposes of these standards, the following terms shall have the meanings stated below:

(a) *Broken kernels.* Kernels of rice which are less than three-fourths of whole kernels.

(b) *Brown rice.* Whole or broken kernels of rice from which the hulls have been removed.

(c) *Chalky kernels.* Whole or broken kernels of rice which are one-half or more chalky.

(d) *Classes.* There are four classes of brown rice for processing.

Long-Grain Brown Rice for Processing.
Medium-Grain Brown Rice for Processing.
Short-Grain Brown Rice for Processing.

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[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

Mixed Brown Rice for Processing.

Classes shall be based on the percentage of whole kernels, broken kernels, and types of rice.

(1) "Long-grain brown rice for processing" shall consist of brown rice for processing which contains more than 25.0 percent of whole kernels of brown rice and not more than 10.0 percent of whole or broken kernels of medium- or short-grain rice.

(2) "Medium-grain brown rice for processing" shall consist of brown rice for processing which contains more than 25.0 percent of whole kernels of brown rice and not more than 10.0 percent of whole or broken kernels of long-grain rice or whole kernels of short-grain rice.

(3) "Short-grain brown rice for processing" shall consist of brown rice for processing which contains more than 25.0 percent of whole kernels of brown rice and not more than 10.0 percent of whole or broken kernels of long-grain rice or whole kernels of medium-grain rice.

(4) "Mixed brown rice for processing" shall be brown rice for processing which contains more than 25.0 percent of whole kernels of brown rice and more than 10.0 percent of "other types" as defined in paragraph (i) of this section.

(e) *Damaged kernels.* Whole or broken kernels of rice which are distinctly discolored or damaged by water, insects, heat, or any other means (including parboiled kernels in nonparboiled rice and smutty kernels). "Heat-damaged kernels" (see paragraph (f) of this section) shall not function as damaged kernels.

(f) *Heat-damaged kernels.* Whole or broken kernels of rice which are materially discolored and damaged as a result of heating and parboiled kernels in nonparboiled rice which are as dark as, or darker in color than, the interpretive line for heat-damaged kernels.

(g) *Milling yield.* An estimate of the quantity of whole kernels and total milled rice (whole and broken kernels combined) that is produced in the milling of brown rice for processing to a well-milled degree.

(h) *Objectionable seeds.* Whole or broken seeds other than rice, except seeds of *Echinochloa crusgalli* (commonly known as barnyard grass, watergrass, and Japanese millet).

(i) *Other types.* (1) Whole kernels of: (i) Long-grain rice in medium- or short-grain rice and medium- or short-grain rice in long-grain rice, (ii) medium-grain rice in long- or short-grain rice, (iii) short-grain rice in long- or medium-grain rice, (2) broken kernels of long-grain rice in medium- or short-grain rice and broken kernels of medium- or short-grain rice in long-grain rice.

NOTE: Broken kernels of medium-grain rice in short-grain rice and broken kernels of short-grain rice in medium-grain rice shall not be considered other types.

(j) *Paddy Kernels.* Whole or broken unhulled kernels and whole or broken kernels of rise having a portion or portions of the hull remaining which cover one-half (½) or more of the whole or broken kernel.

(k) *Red rice.* Whole or broken kernels of rice on which the bran is distinctly red in color.

(l) *Related material.* All by-products of a paddy kernel, such as the outer glumes, lemma, palea, awn, embryo, and bran layers.

(m) *Seeds.* Whole or broken seeds of any plant other than rice.

(n) *Smutty kernels.* Whole or broken kernels of rice which are distinctly infected by smut.

(o) *Types of rice.* There are three types of brown rice for processing:

Long grain
Medium grain
Short grain

Types shall be based on the length/width ratio of kernels of rice that are unbroken and the width, thickness, and shape of kernels of rice that are broken as set forth in the Rice Inspection Handbook.[1]

(p) *Ungelantinized kernels.* Whole or broken kernels of parboiled rice with distinct white or chalky areas due to incomplete gelatization of the starch.

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[1] Publications referenced in these standards will be made available upon request to the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250.

(q) *Unrelated material.* All matter other than rice, related material, and seeds.

(r) *Well-milled kernels.* Whole or broken kernels of rice from which the hulls and practically all of the embryos and the bran layers have been removed.

(s) *Whole kernels.* Unbroken kernels of rice and broken kernels of rice which are at least three-fourths of an unbroken kernel.

(t) *6 plate.* A laminated metal plate 0.142-inch thick, with a top lamina 0.051-inch thick, perforated with rows of round holes 0.0938 (6/64) inch in diameter, and a bottom lamina 0.091-inch thick, without perforations.

(u) *6½ sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.1016 (6½/64) inch in diameter.

[13 FR 9479, Dec. 31, 1948, as amended at 44 FR 73008, Dec. 17, 1979; 47 FR 34516, Aug. 10, 1982]

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 68.253 Basis of determination.

The determination of kernels damaged by heat, heat-damaged kernels, parboiled kernels in nonparboiled rice, and the special grade Parboiled brown rice for processing shall be on the basis of the brown rice for processing after it has been milled to a well-milled degree. All other determinations shall be on the basis of the original sample. Mechanical sizing of kernels shall be adjusted by handpicking as set forth in the Rice Inspection Handbook [2] or by any method which gives equivalent results.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982]

§ 68.254 Temporary modifications in equipment and procedures.

The equipment and procedures referred to in the brown rice for processing standards are applicable to rice produced and harvested under normal environmental conditions. Abnormal environmental conditions during the production and harvest of rice may require minor temporary modifications in the equipment or procedures to obtain results expected under normal conditions. When these adjustments are necessary, Federal Grain Inspection Service Field Offices, official inspection agencies, and interested parties in the rice industry will be notified promptly in writing of the modification. These modifications shall not include changes in interpretations of identity, class, quality, or condition.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982]

§ 68.255 Broken kernels determination.

Broken kernels shall be determined by the use of equipment and procedures set forth in the Rice Inspection Handbook [2] or by any method which gives equivalent results.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982]

§ 68.256 Interpretive line samples.

Interpretive line samples showing the official scoring line for factors that are determined by visual observation shall be maintained by the Federal Grain Inspection Service, U.S. Department of Agriculture, and shall be available for reference in all inspection offices that inspect and grade rice.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982]

§ 68.257 Milling requirements.

In determining milling yield (see § 68.252(g)) in brown rice for processing, the degree of milling shall be equal to, or better than, that of the interpretive line sample for "well-milled" rice.

§ 68.258 Milling yield determination.

Milling yield shall be determined by the use of an approved device in accordance with procedures prescribed in the Rice Inspection Handbook and the Equipment Handbook.[2] For the purpose of this paragraph, "approved device" shall include the McGill Miller No. 3 and any other equipment that is approved by the Administrator as giving equivalent results.[3]

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[2] Publications referenced in these standards will be made available upon request to the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250.

NOTE: Milling yield shall not be determined when the moisture content of the brown rice for processing exceeds 18.0 percent.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982]

§ 68.259 Moisture.

Water content in brown rice for processing as determined by an approved device in accordance with procedures prescribed in the Rice Inspection Handbook.[3] For the purpose of this paragraph, "approved device" shall include the Motomco Moisture Meter and any other equipment that is approved by the Administrator as giving equivalent results.[3]

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982]

§ 68.260 Percentages.

Percentages shall be determined on the basis of weight and shall be rounded off as follows:

(a) When the figure to be rounded is followed by a figure greater than 5, round to the next higher figure; e.g., 0.46, report as 0.5.

(b) When the figure to be rounded is followed by a figure less than 5, round to the next lowest figure; e.g., 0.54, report as 0.5.

(c) When the figure to be rounded is followed by the figure 5, round to the nearest even figure; e.g., 0.45, report as 0.4; 0.55, report as 0.6.

All percentages, except for milling yield, shall be stated in whole and tenth percent to the nearest tenth percent. Milling yield shall be stated to the nearest whole percent.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 68.261 Grades and grade requirements for the classes of brown rice for processing.

(See also § 68.263.)

Grade	Maximum limits of—									
	Paddy kernels		Seeds and heat-damaged kernels			Red rice and damaged kernels (singly or combined) (Percent)	Chalky kernels[1] (Percent)	Broken kernels removed by a 6 plate or a 6½ sieve[2] (Percent)	Other types[3]	Well-milled kernels (Percent)
	(Percent)	(Number in 500 grams)	Total (singly or combined) (Number in 500 grams)	Heat-damaged kernels (Number in 500 grams)	Objectionalbe seeds (Number in 500 grams)					
U.S. No. 1		20	10	1	2	1.0	2.0	1.0	1.0	1.0
U.S. No. 2	2.0		40	2	10	2.0	4.0	2.0	2.0	3.0
U.S. No. 3	2.0		70	4	20	4.0	6.0	3.0	5.0	10.0
U.S. No. 4	2.0		100	8	35	8.0	8.0	4.0	10.0	10.0
U.S. No. 5	2.0	—	150	15	50	15.0	15.0	6.0	10.0	10.0

U.S. Sample grade shall be brown rice for processing which (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; (b) contains more than 14.5 percent of moisture; (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; (e) contains more than 0.2 percent of related material or more than 0.1 percent of unrelated material; (f) contains live weevils or other live insects; or (g) is otherwise of distinctly low quality.

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[1] For the special grade Parboiled brown rice for processing, see § 68.263(a).

[2] Plates should be used for southern production rice and sieves should be used for western production rice, but any device or method which gives equivalent results may be used.

[3] These limits do not apply to the class Mixed Brown Rice for Processing.

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[3] Requests for information concerning approved devices and procedures, criteria for approved devices, and requests for approval of devices should be directed to the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, D.C. 20250.

§ 68.262 Grade designation.

(a) The grade designation for all classes of brown rice for processing, except Mixed Brown Rice for Processing, shall include in the following order: (1) The letters "U.S."; (2) the number of the grade or the words "Sample grade," as warranted; (3) the words "or better," when applicable and requested by the applicant prior to inspection; (4) the class; and (5) each applicable special grade (see § 68.264).

(b) The grade designation for the class Mixed Brown Rice for Processing shall include in the following order: (1) The letters "U.S."; (2) the number of the grade or the words "Sample grade," as warranted; (3) the words "or better," when applicable and requested by the applicant prior to inspection; (4) the class; (5) each applicable special grade (see § 68.264); (6) the percentage of whole kernels of each type in the order of predominance; and when applicable; (7) the percentage of broken kernels of each type in the order of predominance; and (8) the percentage of seeds, related material, and unrelated material.

NOTE: Broken kernels other than long grain, in Mixed Brown Rice for Processing, shall be certificated as "medium or short grain."

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 68.263 Special grades and special grade requirements.

A special grade, when applicable, is supplemental to the grade assigned under § 68.262. Such special grades for brown rice for processing are established and determined as follows:

(a) *Parboiled brown rice for processing.* Parboiled brown rice for processing shall be rice in which the starch has been gelatinized by soaking, steaming, and drying. Grades U.S. Nos. 1 to 5, inclusive, shall contain not more than 10.0 percent of ungelatinized kernels. Grades U.S. No. 1 and U.S. No. 2 shall contain not more than 0.1 percent, grades U.S. No. 3 and U.S. No. 4 not more than 0.2 percent, and grade U.S. No. 5 not more than 0.5 percent of nonparboiled rice.

NOTE: The maximum limits for "chalky kernels," "Heat-damaged kernels," and "Kernels damaged by heat" shown in § 68.261 are not applicable to the special grade "Parboiled brown rice for processing."

(b) *Smutty brown rice for processing.* Smutty brown rice for processing shall be rice which contains more than 3.0 percent of smutty kernels.

§ 68.264 Special grade designation.

The grade designation for parboiled or smutty brown rice for processing shall include, following the class, the word(s) "Parboiled" or "Smutty," as warranted, and all other information prescribed in § 68.262.

Subpart E—United States Standards for Milled Rice [1]

SOURCE: 42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, unless otherwise noted.

TERMS DEFINED

§ 68.301 Definition of milled rice.

Whole or broken kernels of rice (*Oryza sativa* L.) from which the hulls and at least the outer bran layers have been removed and which contain not more than 10.0 percent of seeds, paddy kernels, or foreign material, either singly or combined.

[48 FR 24859, June 3, 1983]

§ 68.302 Definition of other terms.

For the purposes of these standards, the following terms shall have the meanings stated below:

(a) *Broken kernels.* Kernels of rice which are less than three-fourths of whole kernels.

(b) *Brown rice.* Whole or broken kernels of rice from which the hulls have been removed.

(c) *Chalky kernels.* Whole or broken kernels of rice which are one-half or more chalky.

(d) *Classes.* There are seven classes of milled rice. The following four classes shall be based on the percentage of whole kernels, and types of rice:

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[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

Long-Grain Milled Rice.
Medium-Grain Milled Rice.
Short-Grain Milled Rice.
Mixed Milled Rice.

The following three classes shall be based on the percentage of whole kernels and of broken kernels of different size:

Second-Head Milled Rice.
Screenings Milled Rice.
Brewers Milled Rice.

(1) "Long-grain milled rice" shall consist of milled rice which contains more than 25.0 percent of whole kernels of milled rice and in U.S. Nos. 1 through 4 not more than 10.0 percent of whole or broken kernels of medium- or short-grain rice. U.S. No. 5 and U.S. No. 6 long-grain milled rice shall contain not more than 10.0 percent of whole kernels of medium- or short-grain milled rice (broken kernels do not apply).

(2) "Medium-grain milled rice" shall consist of milled rice which contains more than 25.0 percent of whole kernels of milled rice and in U.S. Nos. 1 through 4 not more than 10.0 percent of whole or broken kernels of long-grain rice or whole kernels of short-grain rice. U.S. No. 5 and U.S. No. 6 medium-grain milled rice shall contain not more than 10.0 percent of whole kernels of long- or short-grain milled rice (broken kernels do not apply).

(3) "Short-grain milled rice" shall consist of milled rice which contains more than 25.0 percent of whole kernels of milled rice and in U.S. Nos. 1 through 4 not more than 10.0 percent of whole or broken kernels of long-grain rice or whole kernels of medium-grain rice. U.S. No. 5 and U.S. No. 6 short-grain milled rice shall contain not more than 10.0 percent of whole kernels of long- or medium-grain milled rice (broken kernels do not apply).

(4) "Mixed milled rice" shall consist of milled rice which contains more than 25.0 percent of whole kernels of milled rice and more than 10.0 percent of "other types" as defined in paragraph (i) of this section. U.S. No. 5 and U.S. No. 6 mixed milled rice shall contain more than 10.0 percent of whole kernels of "other types" (broken kernels do not apply).

(5) "Second head milled rice" shall consist of milled rice which, when determined in accordance with §§ 68.303 and 68.304, contains:

(i) Not more than (*a*) 25.0 percent of whole kernels, (*b*) 7.0 percent of broken kernels removed by a 6 plate, (*c*) 0.4 percent of broken kernels removed by a 5 plate, and (*d*) 0.05 percent of broken kernels passing through a 4 sieve (southern production); or

(ii) Not more than (*a*) 25.0 percent of whole kernels, (*b*) 50.0 percent of broken kernels passing through a 6½ sieve, and (*c*) 10.0 percent of broken kernels passing through a 6 sieve (western production).

(6) "Screenings milled rice" shall consist of milled rice which, when determined in accordance with §§ 68.303 and 68.304, contains:

(i) Not more than (*a*) 25.0 percent of whole kernels, (*b*) 10.0 percent of broken kernels removed by a 5 plate, and (*c*) 0.2 percent of broken kernels passing through a 4 sieve (southern production); or

(ii) Not more than (*a*) 25.0 percent of whole kernels and (*b*) 15.0 percent of broken kernels passing through a 5½ sieve; and more than (*c*) 50.0 percent of broken kernels passing through a 6½ sieve and (*d*) 10.0 percent of broken kernels passing through a 6 sieve (western production).

(7) "Brewers milled rice" shall consist of milled rice which, when determined in accordance with §§ 68.303 and 68.304, contains not more than 25.0 percent of whole kernels and which does not meet the kernel-size requirements for the class Second Head Milled Rice or Screenings Milled Rice.

(e) *Damaged kernels.* Whole or broken kernels of rice which are distinctly discolored or damaged by water, insects, heat, or any other means, and parboiled kernels in nonparboiled rice. "Heat-damaged kernels" (see paragraph (g) of this section) shall not function as damaged kernels.

(f) *Foreign material.* All matter other than rice and seeds. Hulls, germs, and bran which have separated from the kernels of rice shall be considered foreign material.

(g) *Heat-damaged kernels.* Whole or broken kernels of rice which are materially discolored and damaged as a result of heating and parboiled kernels in nonparboiled rice which are as dark as, or darker in color than, the interpretive line for heat-damaged kernels.

(h) *Objectionable seeds.* Seeds other than rice, except seeds of *Echinochloa crusgalli* (commonly known as barnyard grass, watergrass, and Japanese millet).

(i) *Other types.* (1) Whole kernels of: (i) Long-grain rice in medium- or short-grain rice, (ii) medium-grain rice in long- or short-grain rice, (iii) Short-grain rice in long- or medium-grain rice, and (2) broken kernels of long-grain rice in medium- or short-grain rice and broken kernels of medium- or short-grain rice in long-grain rice, except in U.S. No. 5 and U.S. No. 6 milled rice. In U.S. No. 5 and U.S. No. 6 milled rice, only whole kernels will apply.

NOTE: Broken kernels of medium-grain rice in short-grain rice and broken kernels of short-grain rice in medium-grain rice shall not be considered other types.

(j) *Paddy Kernels.* Whole or broken unhulled kernels of rice; whole or broken kernels of brown rice, and whole or broken kernels of milled rice having a portion or portions of the hull remaining which cover one-eighth (1/8) or more of the whole or broken kernel.

(k) *Red rice.* Whole or broken kernels of rice on which there is an appreciable amount of red bran.

(l) *Seeds.* Whole or broken seeds of any plant other than rice.

(m) *Types of rice.* There are three types of milled rice as follows:

Long grain.
Medium grain.
Short grain.

Types shall be based on the length-width ratio of kernels of rice that are unbroken and the width, thickness, and shape of kernels that are broken, as set forth in the Rice Inspection Handbook.[2]

(n) *Ungelatinized kernels.* Whole or broken kernels of parboiled rice with distinct white or chalky areas due to incomplete gelatinization of the starch.

(o) *Well-milled kernels.* Whole or broken kernels of rice from which the hulls and practically all of the germs and the bran layers have been removed.

NOTE: This factor is determined on an individual kernel basis and applies to the special grade Undermilled milled rice only.

(p) *Whole kernels.* Unbroken kernels of rice and broken kernels of rice which are at least three-fourths of an unbroken kernel.

(q) *5 plate.* A laminated metal plate 0.142-inch thick, with a top lamina, 0.051-inch thick, perforated with rows of round holes 0.0781 (5/64) inch in diameter, 5/32 inch from center to center, with each row staggered in relation to the adjacent rows, and a bottom lamina 0.091-inch thick, without perforations.

(r) *6 plate.* A laminated metal plate 0.142-inch thick, with a top lamina 0.051-inch thick, perforated with rows of round holes 0.0938 (6/64) inch in diameter, 5/32 inch from center to center, with each row staggered in relation to the adjacent rows, and a bottom lamina 0.091-inch thick, without perforations.

(s) *2½ sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0391 (2½/64) inch in diameter, 0.075-inch from center to center, with each row staggered in relation to the adjacent rows.

(t) *4 sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0625 (4/64) inch in diameter, 1/8 inch from center to center, with each row staggered in relation to the adjacent rows.

(u) *5 sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0781 (5/64) inch in diameter, 5/32 inch from center to center, with each row staggered in relation to the adjacent rows.

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[2] Publications referenced in these standards will be made available upon request to the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250.

(v) *5½ sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0859 (5½/64) inch in diameter, 9/64 inch from center to center, with each row staggered in relation to the adjacent rows.

(w) *6 sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0938 (6/64) inch in diameter, 5/32 inch from center to center, with each row staggered in relation to the adjacent rows.

(x) *6½ sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.1016 (6½/64) inch in diameter, 5/32 inch from center to center, with each row staggered in relation to the adjacent rows.

(y) *30 sieve.* A woven wire cloth sieve having 0.0234-inch openings, with a wire diameter of 0.0153 inch, and meeting the specifications of American Society for Testing and Materials Designation E-11-61, as set forth in the Equipment Handbook.[2]

[13 FR 9479, Dec. 31, 1948, as amended at 44 FR 73008, Dec. 17, 1979; 47 FR 34516, Aug. 10, 1982]

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 68.303 Basis of determination.

All determinations shall be on the basis of the original sample. Mechanical sizing of kernels shall be adjusted by handpicking, as set forth in the Rice Inspection Handbook,[2] or by any method which gives equivalent results.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982]

§ 68.304 Temporary modifications in equipment and procedures.

The equipment and procedures referred to in the milled rice standards are applicable to rice produced and harvested under normal environmental conditions. Abnormal environmental conditions during the production and harvest of rice may require minor temporary modifications in the equipment or procedures to obtain results expected under normal conditions. When these adjustments are necessary, Federal Grain Inspection Service Field Offices, official inspection agencies, and interested parties in the rice industry will be notified promptly in writing of the modification. These modifications shall not include changes in interpretations of identity, class, quality, or condition.

§ 68.305 Broken kernels determination.

Broken kernels shall be determined by the use of equipment and procedures set forth in the Rice Inspection Handbook,[2] or by any method which gives equivalent results.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982]

§ 68.306 Interpretive line samples.

Interpretive line samples showing the official scoring line for factors that are determined by visual observation shall be maintained by the Federal Grain Inspection Service, U.S. Department of Agriculture, and shall be available for reference in all inspection offices that inspect and grade rice.

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982]

§ 68.307 Milling requirements.

The degree of milling for milled rice; i.e., "well milled," "reasonably well milled," and "lightly milled" shall be equal to, or better than, that of the interpretive line samples for such rice.

§ 68.308 Moisture.

Water content in milled rice as determined by an approved device in accordance with procedures prescribed in the Rice Inspection Handbook.[2] For the purpose of this paragraph, "approved device" shall include the Motomco Moisture Meter and any other equipment that is approved by the Administrator as giving equivalent results.[3]

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[2] See footnote 2 to § 68.302.

[3] Requests for information concerning approved devices and procedures, criteria for approved devices, and requests for approval of devices should be directed to the Federal

Continued

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 47 FR 34516, Aug. 10, 1982]

§ 68.309 Percentages.

Percentages shall be determined on the basis of weight and shall be rounded off as follows:

(a) When the figure to be rounded is followed by a figure greater than 5, round to the next higher figure; e.g., 0.46, report as 0.5.

(b) When the figure to be rounded is followed by a figure less than 5, round to the next lowest figure; e.g., 0.54, report as 0.5.

(c) When the figure to be rounded is followed by the figure 5, round to the nearest even figure; e.g., 0.45, report as 0.4; 0.55, report as 0.6.

All percentages, except for milling yield, shall be stated in whole and tenth percent to the nearest tenth percent. Milling yield shall be stated to the nearest whole percent.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 68.310 Grades and grade requirements for the classes Long-Grain Milled Rice, Medium-Grain Milled Rice, Short-Grain Milled Rice, and Mixed-Milled Rice.

(See also § 68.315.)

Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, D.C. 20250.

Grade	Maximum limits of—											Color requirements[1]	Milling requirements (minimum)[4]
	Seeds and heat-damaged and kernels (singly or combined)		Red rice and damaged kernels (singly or combined) (Percent)	Chalky kernels[1]		Total (Percent)	Broken kernels			Other types[3]			
	Total Number in 500 grams	Heat damaged kernels and objectionable seeds (Number in 500 grams)		In long-grain rice (Percent)	In medium or short grain rice (Percent)		Removed by a 5 plate[2] (Percent)	Removed by a 6 plate[2] (Percent)	Through a 6 sieve[2] (Percent)	Whole kernels (Percent)	Whole and broken kernels (Percent		
U.S. No. 1	2	1	0.5	1.0	2.0	4.0	0.04	0.1	0.1	—	1.0	Shall be white or creamy.	Well milled.
U.S. No. 2	4	2	1.5	2.0	4.0	7.0	0.06	0.2	0.2	—	2.0	May be slightly gray	Well milled.
U.S. No. 3	7	5	2.5	4.0	6.0	15.0	0.1	0.8	0.5	—	3.0	May be light gray	Reasonably well milled.
U.S. No. 4	20	15	4.0	6.0	8.0	25.0	0.4	2.0	0.7	—	5.0	May be gray or slightly rosy.	Reasonably well milled.
U.S. No. 5	30	25	[5]6.0	10.0	10.0	35.0	0.7	3.0	1.0	10.0	—	May be dark gray or rosy.	Lightly milled.
U.S. No. 6	75	75	[5]15.0	15.0	15.0	50.0	1.0	4.0	2.0	10.0	—	May be dark gray or rosy.	Lightly milled.

U.S. Sample grade shall be milled rice of any of these classes which: (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 6, inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty or sour, or heating; (d) has any commercially objectionable foreign odor; (e) contains more than 0.1 percent of foreign material; (f) contains live or dead weevils or other insects, insect webbing, or insect refuse; or (g) is otherwise of distinctly low quality.

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[1] For the special grade Parboiled milled rice, see § 68.315(c).

[2] Plates should be used for southern production rice, and sieves should be used for western production rice; but any device or method which gives equivalent results may be used.

[3] These limits do not apply to the class Mixed Milled Rice.

[4] For the special grade Undermilled milled rice, see § 68.315(d).

[5] Grade U.S. No. 6 shall contain not more than 6.0 percent of damaged kernels.

§ 68.311 Grades and grade requirements for the class Second Head Milled Rice.

(See also § 68.315.)

Grade	Maximum limits of—				Color requirements[1]	Milling requirements[2]
	Seeds, heat-damaged, and paddy kernels (singly or combined)		Red rice and damaged kernels (singly or combined) Percent	Charky Kernels[1]		
	Total Number in 500 grams	Heat-damaged kernels and objectionable seeds Number in 500 grams				
U.S. No. 1	15	5	1.0	4.0	Shall be white or creamy	Well milled.
U.S. No. 2	20	10	2.0	6.0	May be slightly gray	Well milled.
U.S. No. 3	35	15	3.0	10.0	May be light gray	Reasonably well milled.
U.S. No. 4	50	25	5.0	15.0	May be gray or slightly rosy.	Reasonably well milled.
U.S. No. 5	75	40	10.0	20.0	May be dark gray or rosy	Lightly milled.

U.S. Sample Grade shall be milled rice of this class which: (a) Does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5 inclusive, (b) contains more than 15.0 percent of moisture; (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; (e) contains more than 0.1 percent of foreign material; (f) contains live or dead weevils or other insects, insect webbing, or insect refuse; or (g) is otherwise of distinctly low quality.

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[1] For the special grade Parboiled milled rice, see § 68.315(c).

[2] For the special grade Undermilled milled rice, see § 68.315(d). This limit does not apply to the special grade Granulated brewers milled rice.

§ 68.312 Grades and grade requirements for the class Screenings Milled Rice

(See also § 68.315.)

Grade	Maximum limits of—		Chalky kernels[1] (Percent)	Color requirements[1]	Minimum milling requirements[2]
	Paddy kernels and seeds				
	Total (singly or combined) (Number in 500 grams)	Objectionable seeds (Number in 500 grams)			
U.S. No. 1 [3,4]	30	20	5.0	Shall be white or creamy	9Well milled.
U.S. No. 2 [3,4]	75	50	8.0	May be slightly gray	Well milled.
U.S. No. 3 [3,4]	125	90	12.0	May be light gray or slightly rose	Reasonably well milled.
U.S. No. 4 [3,4]	175	140	20.0	May be gray or rosy	Reasonably well milled.
U.S. No. 5	250	200	30.0	May be dark gray or very rosy	Lightly milled.

U.S. Sample Grade shall be milled rice of this class which: (a) Does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5 inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; (e) has a badly damaged or extremely red appearance; (f) contains more than 0.1 percent of foreign material; (g) contains live or dead weevils or other insects, insect webbing, or insect refuse; or (h) is otherwise of distinctly low quality.

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[1] For the special grade Parboiled milled rice see § 68.315(c).

[2] For the special grade Undermilled milled rice see § 68.315(d).

[3] Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 3.0 percent of heat-damaged kernels, kernels damaged by heat and/or parboiled kernels in nonparboiled rice.

[4] Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 1.0 percent of material passing through a 30 sieve.

§ 68.313 Grades and grade requirements for the Class Brewers Milled Rice. (See also § 68.315.)

Grade	Maximum limits of— Paddy kernels and seeds: Total (singly or combined) (Percent)	Maximum limits of— Paddy kernels and seeds: Objectionable seeds (Percent)	Color requirements[1]	Minimum milling requirements[2]
U.S. No. 1[3] [4]	0.5	0.05	Shall be white or creamy	Well milled.
U.S. No. 2[3] [4]	1.0	0.1	May be slightly gray	Well milled.
U.S. No. 3[3] [4]	1.5	0.2	May be light gray or slightly rosy	Reasonably well milled.
U.S. No. 4[3] [4]	3.0	0.4	May be gray or rosy	Reasonably well milled.
U.S. No. 5	5.0	1.5	May be dark gray or very rosy	Lightly milled.

U.S. Sample Grade shall be milled rice of this class which: (a) Does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5 inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; (e) has a badly damaged or extremely red appearance; (f) contains more than 0.1 percent of foreign material; (g) contains more than 15.0 percent of broken kernels that will pass through a 2½ sieve; (h) contains live or dead weevils or other insects, insect webbing or insect refuse; or (i) is otherwise of distinctly low quality.

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[1] For the special grade Parboiled milled rice, see § 68.315(c).

[2] For the special grade Undermilled milled rice, see § 68.315(d).

[3] Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 3.0 percent of heat-damaged kernels, kernels damaged by heat and/or parboiled kernels in nonparboiled rice.

[4] Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 1.0 percent of material passing through a 30 sieve. This limit does not apply to the special grade Granulated brewers milled rice.

§ 68.314 Grade designations.

(a) The grade designation for all classes of milled rice, except Mixed Milled Rice, shall include in the following order: (1) The letters "U.S."; (2) the number of the grade or the words "Sample grade", as warranted; (3) the words "or better," when applicable and requested by the applicant prior to inspections; (4) the class; and (5) each applicable special grade (see § 68.316).

(b) The grade designation for the class Mixed Milled Rice shall include, in the following order: (1) The letters "U.S."; (2) the number of the grade or the words "Sample grade", as warranted; (3) the words "or better," when applicable and requested by the applicant prior to inspection; (4) the class; (5) each applicable special grade (see § 68.316); (6) the percentage of whole kernels of each type in the order of predominance and when applicable; (7) the percentage of broken kernels of each type in the order of predominance; and (8) the percentage of seeds and foreign material.

NOTE: Broken kernels other than long grain, in Mixed Milled Rice, shall be certificated as "medium or short grain."

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 68.315 Special grades and special grade requirements.

A special grade, when applicable, is supplemental to the grade assigned under § 68.314. Such special grades for milled rice are established and determined as follows:

(a) *Coated Milled Rice.* Coated milled rice shall be rice which is coated, in whole or in part, with substances that are safe and suitable[3] according to commercially accepted practice.

(b) *Granulated brewers milled rice.* Granulated brewers milled rice shall be milled rice which has been crushed or granulated so that 95.0 percent or more will pass through a 5 sieve, 70.0 percent or more will pass through a 4 sieve, and not more than 15.0 percent will pass through a 2½ sieve.

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[3] Compliance with the provisions of the standards does not excuse failure to comply with provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal Laws, Safe and suitable is defined in the regulation issued pursuant to the Federal Food, Drug and Cosmetic Act of 21 CFR 130.3(d).

(c) *Parboiled milled rice.* Parboiled milled rice shall be milled rice in which the starch has been gelatinized by soaking, steaming, and drying. Grades U.S. No. 1 to U.S. No. 6, inclusive, shall contain not more than 10.0 percent of ungelatinized kernels. Grades U.S. No. 1 and U.S. No. 2 shall contain not more than 0.1 percent, grades U.S. No. 3 and U.S. No. 4 not more than 0.2 percent, and grades U.S. No. 5 and U.S. No. 6 not more than 0.5 percent of nonparboiled rice. If the rice is: (1) Not distinctly colored by the parboiling process, it shall be considered "Parboiled Light"; (2) distinctly but not materially colored by the parboiling process, it shall be considered "Parboiled"; (3) materially colored by the parboiling process, it shall be considered "Parboiled Dark." The color levels for "Parboiled Light," "Parboiled," and "Parboiled Dark" shall be in accordance with the interpretive line samples for parboiled rice.

NOTE: The maximum limits for "Chalky kernels," "Heat-damaged kernels," "Kernels damaged by heat," and the "Color requirements" in §§ 68.310, 68.311, 68.312, and 68.313 are not applicable to the special grade "Parboiled milled rice."

(d) *Undermilled milled rice.* Undermilled milled rice shall be milled rice which is not equal to the milling requirements for "well milled," "reasonably well milled," and "lightly milled" rice (see § 68.307). Grades U.S. No. 1 and U.S. No. 2 shall contain not more than 2.0 percent, grades U.S. No. 3 and U.S. No. 4 not more than 5.0 percent, grade U.S. No. 5 not more than 10.0 percent, and grade U.S. No. 6 not more than 15.0 percent of well-milled kernels. Grade U.S. No. 5 shall contain not more than 10.0 percent of red rice and damaged kernels (singly or combined) and in no case more than 6.0 percent of damaged kernels.

NOTE: The "Color and milling requirements" in §§ 68.310, 68.311, 68.312, and 68.313 are not applicable to the special grade "Undermilled milled rice."

(Secs. 203, 205, 60 Stat. 1087, 1090 as amended; 7 U.S.C. 1622, 1624)

[42 FR 40869, Aug. 12, 1977; 42 FR 64356, Dec. 23, 1977, as amended at 48 FR 24859, June 3, 1983]

§ 68.316 Special grade designation.

The grade designation for coated, granulated brewers, parboiled, or undermilled milled rice shall include, following the class, the word(s) "Coated," "Granulated," "Parboiled Light," "Parboiled," "Parboiled Dark," or "Undermilled," as warranted, and all other information prescribed in § 68.314.

Subpart F—United States Standards for Whole Dry Peas [1]

SOURCE: 39 FR 18634, May 29, 1974, unless otherwise noted.

TERMS DEFINED

§ 68.401 Definition of whole dry peas.

Threshed seeds of the pea plant (*Pisumsativum* L.) and the winter field pea plant [*Pisum sativum* var. *arvense* (L.) Poir.] which after the removal of dockage contain 50 percent or more of whole peas and not more than 10.0 percent of foreign material.

§ 68.402 Definitions of other terms.

For the purposes of these standards the following terms shall have the meanings stated below:

(a) *Bleached peas.* Whole and pieces of dry peas of green-colored varieties which are bleached distinctly yellow in color or peas of yellow-colored varieties which are bleached distinctly green in color.

(b) *Classes.* The following five classes:

(1) *Smooth Green Dry Peas.* Dry peas of the garden type which have smooth seedcoats and green cotyledons and contain not more than 1.5 percent of other classes.

(2) *Smooth Yellow Dry Peas.* Dry peas of the garden type which have smooth seedcoats and yellow cotyledons and contain not more than 1.5 percent of other classes.

(3) *Wrinkled Dry Peas.* Dry peas of the garden type which have wrinkled

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[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

seedcoats and contain not more than 1.5 percent of other classes.

(4) *Winter Dry Peas.* Dry peas of the winter field pea type which contain not more than 1.5 percent of other classes.

(5) *Mixed Dry Peas.* Any mixture that does not meet the requirements for the classes Smooth Green, Smooth Yellow, Wrinkled, or Winter Dry Peas.

(c) *Damaged peas.* Whole and pieces of dry peas which are distinctly:

(1) Damaged by frost, weather, disease, heat (other than materially discolored as a result of heating), or other causes; and

(2) Soiled or stained by dirt (not applicable for the class Wrinkled Dry Peas).

Damaged peas shall not include weevil-damaged peas or heat-damaged peas.

(d) *Defective peas.* The categories of defective peas shall be weevil-damaged peas, heat-damaged peas, damaged peas, other classes, bleached peas, split peas, shriveled peas, and peas with cracked seedcoats.

(e) *Distinctly low quality.* Whole dry peas which are obviously of inferior quality because they are stained by an unknown foreign substance or because they otherwise contain a known toxic substance(s) or an unknown foreign substance(s) or because they are in an unusual state or condition, and which cannot be graded by use of the other grading factors provided in the standards.

(f) *Dockage.* Small, underdeveloped dry peas, pieces of dry peas, and all matter other than dry peas which can be removed readily by the use of an approved device in accordance with procedures prescribed in the Inspection Handbook for Dry Peas, Split Peas, and Lentils and the Equipment Handbook.[2] For the purpose of this paragraph, "approved device" shall include sieves as set forth in paragraph (q) of this section and any other equipment that is approved by the Administrator as giving equivalent results.[3]

(g) *Dockage-free dry peas.* Dry peas from which the dockage has been removed.

(h) *Foreign material in dockage-free dry peas.* All matter other than dry peas and including detached seedcoats.

(i) *Foreign material in thresher-run dry peas.* All matter other than dry peas, including detached seedcoats, which cannot be readily removed in the determination of dockage.

(j) *Good color peas.* Dry peas that in mass are practically free from discoloration and have the natural color and appearance characteristics of the predominating class.

(k) *Heat-damaged peas.* Whole and pieces of dry peas which have been materially discolored as a result of heating.

(l) *Moisture.* Water content in whole dry peas as determined by an approved device in accordance with procedures prescribed in the Inspection Handbook for Dry Peas, Split Peas, and Lentils and the Equipment Handbook.[2] For the purpose of this paragraph "approved device" shall include the Motomco moisture meter and any other equipment that is approved by the Administrator as giving equivalent results.[3]

(m) *Other classes.* Whole and pieces of dry peas which are of a contrasting color or which differ materially in shape, or other characteristics from the predominating class.

(n) *Peas with cracked seedcoats.* Dry peas having readily discernible cracked seedcoats or peas which have all or a part of the seedcoat removed, and broken peas which are more than one-half of a whole pea.

(o) *Poor color peas.* Dry peas that in mass are distinctly off-color from the characteristic color of the predominating class as a result of age or any other cause.

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[2] Publications referenced in these standards will be made available upon request to the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250.

[3] Requests for information concerning approved devices and procedures, criteria for approved devices, and request for approval of devices should be directed to the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250.

(p) *Shriveled peas.* Dry peas which are distinctly shriveled in contrast to the natural shape and appearance of normally developed peas.

(q) *Sieves.* (1) $\frac{9}{64}$ x ¾ *oblong-hole-sieve.* A metal sieve 0.032 inch thick with oblong perforations 0.1406 inch by 0.750 (¾) inch.

(2) $\frac{10}{64}$ x ¾ *slotted-hole sieve.* A metal sieve 0.032 inch thick with slotted perforations 0.1562 inch by 0.750 (¾) inch.

(3) $\frac{11}{64}$ x ¾ *slotted-hole sieve.* A metal sieve 0.032 inch thick with slotted perforations 0.1718 inch by 0.750 (¾) inch.

(4) $\frac{12}{64}$ x ¾ *slotted-hole sieve.* A metal sieve 0.032 inch thick with slotted perforations 0.1875 inch by 0.750 (¾) inch.

(5) $\frac{13}{64}$ x ¾ *slotted-hole sieve.* A metal sieve 0.032 inch thick with slotted perforations 0.2031 inch by 0.750 (¾) inch.

(6) $\frac{16}{64}$ *round-hole sieve.* A metal sieve 0.032 inch thick with round perforations 0.2500 inch in diameter.

(r) *Split peas.* The halves or smaller pieces of dry peas and dry peas in which the halves are loosely held together.

(s) *Thresher-run dry peas.* Dry peas from which the dockage has not been removed.

(t) *Weevil-damaged peas.* Whole and pieces of dry peas which are distinctly damaged by the pea weevil or other insects.

(u) *Whole peas.* Dry peas with one-fourth or less of the pea removed and with the cotyledons or parts of cotyledons firmly held together.

[39 FR 18634, May 29, 1974, as amended at 47 FR 34516, 34517, Aug. 10, 1982]

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 68.403 Basis of determinations.

(a) All factor determinations shall be made upon the basis of the dry peas after the removal of dockage with the following exceptions:

(1) Dockage in thresher-run dry peas shall be determined upon the basis of the peas as sampled.

(2) Color shall be determined after the removal of dockage, defective peas, and foreign material.

(b) Defects in peas shall be scored in accordance with the order shown in § 68.402(d) and once an individual pea is scored in a defective category it shall not be scored for any other defect. Percentages for all categories of defects shall be calculated on the basis of the total weight of the sample analyzed for defective peas.

§ 68.404 Temporary modifications in equipment and procedures.

The equipment and procedures referred to in the whole dry peas standards are applicable to peas produced and harvested under normal environmental conditions. Abnormal environmental conditions during the production and harvesting of peas may require minor temporary modifications in the equipment or procedures to obtain results expected under normal conditions. When these adjustments are necessary, Federal Grain Inspection Service Field Offices, official inspection agencies, and interested parties in the dry pea industry will be notified promptly in writing of the modification. These modifications shall not include changes in interpretations of identity, class, quality, or condition.

[39 FR 18634, May 29, 1974, as amended at 47 FR 34517, Aug. 10, 1982]

§ 68.405 Percentages.

Percentages shall be determined on the basis of weight and shall be rounded off as follows:

(a) When the figure to be rounded is followed by a figure greater than 5, round to the next higher figure; e.g., 0.46 report as 0.5.

(b) When the figure to be rounded is followed by a figure less than 5, round to the next lowest figure; e.g., 0.54 report as 0.5.

(c) When the figure to be rounded is followed by the figure 5, round to the nearest even figure; e.g., 0.45, report as 0.4; 0.55, report as 0.6.

All percentages shall be stated in whole and tenth percent to the nearest tenth percent.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 68.406 Grades and grade requirements for dockage-free dry peas.

(See also § 68.408.)

	Maximum limits of defective peas									
	Weevil-damaged peas (percent)	Heat-damaged peas (percent)	Damaged peas [2] (percent)	Other classes [3] (percent)	Bleached peas [4] (percent)	Split peas (percent)	Shriveled peas (percent)	Peas with cracked seedcoats (percent)	Foreign material (percent)	Minimum requirements for color
U.S. No. 1 [1]	0.3	0.2	1.0	0.3	1.5	0.5	2.0	5.0	0.1	Good.
U.S. No. 2 [1]	0.8	0.5	1.5	0.8	3.0	1.0	4.0	7.0	0.2	Good.
U.S. No. 3 [1]	1.5	1.0	2.0	1.5	5.0	1.5	8.0	9.0	0.5	Poor.

U.S. Sample grade. U.S. Sample grade shall be dry peas which:

(a) Do not meet the requirements for the grades U.S. Nos. 1, 2, or 3; or

(b) Contain metal fragments, broken glass, or a commercially objectionable odor; or

(c) Contain more than 15.0 percent moisture; or

(d) Are materially weathered, heating, or distinctly low quality; or

(e) Are infested with live weevils or other live insects.[5]

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[1] Uniformity of Size requirements—Dry peas of any of the numerical grades shall be of such size that not more than 3.0 percent shall pass through the appropriate oblong-hole sieve as follows:

Peas	Appropriate sieve
Winter Dry Peas	8/64 x 3/4
Special grade "Small" peas	10/64 x 3/4
All other peas	11/64 x 3/4

[2] Damaged peas do not include weevil-damaged or heat-damaged peas.

[3] These limits do not apply to the class Mixed Dry Peas.

[4] These limits do not apply to winter field peas and wrinkled peas.

[5] As applied to dockage-free whole dry peas, the meaning of the term "infested" is set forth in the Inspection Handbook for Dry Peas, Split Peas, and Lentils.

[47 FR 6246, Feb. 11, 1982, as amended at 47 FR 34517, Aug. 10, 1982]

§ 68.407 Grade designation for dockage-free dry peas.

(a) The grade designation for dockage-free dry peas shall include, in the order named (1) the letters "U.S.," (2) the number of the grade or the words "Sample grade," (3) the name of each applicable special grade, and (4) the name of the class. The grade designation for the class Mixed Dry Peas shall also include, following the words "Mixed Dry Peas," the name and approximate percentage of each class of dry peas in the mixture, in the order of predominance.

(b) At the request of the applicant for inspection, official inspection personnel may include on the grade certificate under "Remarks," a statement substantially as follows: "Variety stated by the applicant to be: ————."

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 68.408 Special grades and requirements.

A special grade, when applicable, is supplemental to the grade assigned under § 68.406. Such special grades are established and determined as follows:

(a) *Large.* Peas of the classes Smooth Green Dry Peas or Smooth Yellow Dry Peas of which not more than 3.0 percent of the peas will readily pass through the 16/64 round-hole sieve.

(b) *Small.* Peas of the classes Smooth Green Dry Peas or Smooth Yellow Dry Peas of which not more than 3.0 percent of the peas will remain on the 16/64 round-hole sieve and not more than 3.0 percent will readily pass through the 10/64 x 3/4 slotted-hole sieve.

§ 68.409 Special grade designation.

The grade designation for large and small dry peas shall include, preceding the class, the word "Large" or "Small," as warranted, and all other information prescribed in § 68.407.

§ 68.410 Thresher-run dry peas.

Thresher-run dry peas shall be inspected for factors only without reference to grade.

(a) Thresher-run dry peas may be inspected for: Class; defective peas and foreign material; dockage; color description; and moisture.

(b) The percentage of defective peas and foreign material shall be combined and shown on the certificate as "total defects and foreign material." For the classes of smooth seeded peas only the percentage of peas with cracked seedcoats in excess of 3.0 percent shall be included in the factor "total defects and foreign material." (Example: In a sample containing 3.2 percent of peas with cracked seedcoats, only 0.2 percent would be included in the total defects and foreign material.)

(c) The percentage of total dockage, total defects and foreign material shall be computed on the basis of the sample as a whole and be shown on the certificate as "total dockage, defects and foreign material."

Subpart G—United States Standards for Split Peas[1]

SOURCE: 36 FR 22141, Nov. 20, 1971, unless otherwise noted.

TERMS DEFINED

§ 68.501 Definitions.

For the purposes of these standards the following terms shall have the meanings stated below:

(a) *Bleached split peas.* Split peas of green-colored varieties which are bleached distinctly yellow in color or split peas of yellow-colored varieties which are bleached distinctly green in color.

(b) *Classes.* The following three classes:

(1) *Green split peas.* Split peas from the garden varieties which have green-colored cotyledons.

(2) *Yellow split peas.* Split peas from the garden varieties which have yellow-colored cotyledons.

(3) *Winter split peas.* Split peas from the Austrian Winter or Romack varieties, or of other similar varieties.

(c) *Contrasting split peas.* Split peas which are of a color contrasting with the predominating class of split peas. Bleached split peas of the predominating class shall not be considered as contrasting split peas.

(d) *Damaged split peas.* Split peas which are distinctly damaged by frost, weather, disease, heat (other than to a material extent), or other causes (except weevil or material heat damage), or are distinctly soiled or stained by nightshade, dirt, or toxic material.

(e) *Defective split peas.* The categories of defective split peas shall be weevil-damaged split peas, heat-damaged split peas, damaged split peas, contrasting split peas, whole peas, white caps, and bleached split peas.

(f) *Fair color split peas.* Split peas that in mass are off color from the characteristic color of the predominating class as a result of age or any other cause.

(g) *Foreign material.* All matter which will pass readily through a 2½/64 round-hole sieve and all matter other than split peas which remains on the sieve. (Foreign material shall include detached seedcoats and pieces of detached seedcoats.)

(h) *Good color split peas.* Split peas that in mass are practically free from discoloration and have the natural color and appearance characteristic of the predominating class.

(i) *Heat-damaged split peas.* Split peas which have been materially discolored and damaged by heat.

(j) *Poor color split peas.* Split peas that in mass are distinctly off color from the characteristic color of the predominating class as a result of age or any other cause.

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[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

(k) *Split peas.* Dry threshed seeds of the garden pea plant (*Pisum sativum* L.) and the winter field pea plant (*Pisumsativum* var. *arvense* (L.) Poir.) of which 50.0 percent or more have been split into halves or smaller pieces and which contain not more than 10.0 percent of foreign material.

(l) *Weevil-damaged split peas.* Split peas which are distinctly damaged by the pea weevil or other insects.

(m) *White caps.* Split peas with seedcoats attached.

(n) *Whole peas.* Dry peas which are not split.

(o) 2½/64 *round-hole sieve.* A 2½/64 round-hole sieve shall be a metal sieve 0.0319 inch thick, perforated with round holes 0.0391 (2½/64) inch in diameter, which are 0.075 inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

(p) 6/64 *round-hole sieve.* A 6/64 round-hole sieve shall be a metal sieve 0.0319 inch thick, perforated with round holes 0.0938 (6/64) inch in diameter which are 0.1562 (5/32) inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

(q) 8/64 *round-hole sieve.* An 8/64 round-hole sieve shall be a metal sieve 0.0319 inch thick, perforated with round holes 0.1250 (8/64) inch in diameter which are 0.1875 (3/16) inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

(r) 10/64 *round-hole sieve.* A 10/64 round-hole sieve shall be a metal sieve 0.0319 inch thick, perforated with round holes 0.1562 (10/64) inch in diameter which are 0.2187 (7/32) inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

(s) 12/64 *round-hole sieve.* A 12/64 round-hole sieve shall be a metal sieve 0.0319 inch thick, perforated with round holes 0.1875 (12/64) inch in diameter which are 0.250 (1/4) inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 68.502 Basis of determinations.

(a) All factor determinations shall be made on the basis of the split peas as sampled.

(b) Defects in split peas shall be scored in accordance with the order shown in § 68.501(e) and once an individual pea is scored in a defective category it shall not be scored for any other defect but it shall remain as a part of the sample for purposes of determining the percentages of other defects in the sample.

§ 68.503 Moisture.

Moisture content shall be determined by the use of equipment and procedures set forth in the Equipment Handbook, or by any method which gives equivalent results (see § 68.506).

[36 FR 22141, Nov. 20, 1971, as amended at 47 FR 34517, Aug. 10, 1982]

§ 68.504 Percentages.

All percentages shall be determined on the basis of weight and shall be rounded off in accordance with instructions shown in the Inspection Handbook for Dry Peas, Split Peas, and Lentils (see § 68.506). Percentages shall be stated in whole and tenth percent to the nearest tenth percent.

[36 FR 22141, Nov. 20, 1971, as amended at 47 FR 34517, Aug. 10, 1982]

§ 68.505 Interpretive line samples.

Interpretive line samples showing the official scoring line for factors that are determined by visual observation shall be maintained by the Federal Grain Inspection Service, U.S. Department of Agriculture, and shall be available for reference in all inspection offices that inspect and grade split peas.

[36 FR 22141, Nov. 20, 1977, as amended at 47 FR 34517, Aug. 10, 1982]

§ 68.506 References.

The following publications are referenced in these standards and copies will be made available upon request to the Federal Grain Inspection Service, U.S. Department of Agriculture.

(a) Equipment Handbook, U.S. Department of Agriculture, Federal Grain Inspection Service.

(b) Inspection Handbook for Dry Peas, Split Peas and Lentils, U.S. Department of Agriculture, Federal Grain Inspection Service.

[47 FR 34517, Aug. 10, 1982]

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 68.507 Grades and grade requirements for split peas.
(See also § 68.509.)

Grade	Maximum limits of—													
	Split peas passing through—			Weevil-damaged split peas (Percent)	Heat-damaged split peas (Percent)	Damaged peas [1] (Percent)	Defective Peas						Foreign material (Percent)	Minimum requirements—color
							Contrasting split peas		Whole peas (Percent	White caps		Bleached peas in Green and Yellow Split Peas only (Percent)		
	10/64 round-hole sieve (Percent)	8/64 round-hole sieve (Percent)	6/64 round-hole sieve (Percent)				In Green and Yellow Split Peas only (Percent)	In Winter Split Peas only (Percent)		In Green and Yellow Split Peas only (Percent)	In Winter Split Peas only (Percent)			
U.S. No. 1	3.0	0.5	0.1	0.5	0.2	1.0	0.3	0.5	0.5	1.0	1.5	1.5	0.1	Good.
U.S. No. 2	15.0	3.0	0.2	1.0	0.5	1.5	0.8	1.0	1.0	2.0	3.0	3.0	0.2	Fair.
U.S. No. 3	25.0	5.0	0.3	1.5	1.0	2.0	1.5	2.0	2.0	3.0	5.0	5.0	0.5	Poor.

U.S. Sample grade shall be split peas which—

(a) Do not meet the requirements for the grades U.S. Nos. 1, 2, or 3; or

(b) Contain more than 15.0 percent moisture, live weevils, other live insects, insect webbing or filth, metal fragments, broken glass, or a commercially objectionable odor; or

(c) Are heating, or are distinctly low quality.

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[1] Damaged peas do not include weevil-damaged or heat-damaged peas.

§ 68.508 Grade designation for split peas.

The grade designation for split peas shall include in the following order, the letters "U.S."; the number of the grade or the words "Sample grade"; the name of the class; and the name of each applicable special grade.

SPECIAL GRADE, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 68.509 Special grade and requirements.

(a) The special grade "Split pea chips" shall be applied in accordance with the following requirements: The split peas shall readily pass through a 13/64 round-hole sieve. Additional size requirements for the respective numerical grades shall be as follows:

U.S. No. 1—Not more than 3.0 percent shall readily pass through a 8/64 round-hole sieve;

U.S. No. 2—Not more than 6.0 percent shall readily pass through a 8/64 round-hole sieve;

U.S. No. 3—Not more than 10.0 percent shall readily pass through a 8/64 round-hole sieve.

§ 68.510 Special grade designation.

Split pea chips shall be graded and designated according to the grade requirements of the standards otherwise applicable to split peas, except for size, and there shall be added to and made a part of the grade designation, the word "Chips."

Subpart H—United States Standards for Lentils[1]

SOURCE: 36 FR 22142, Nov. 20, 1971, unless otherwise noted.

TERMS DEFINED

§ 68.601 Definitions.

For the purposes of these standards the following terms shall have the meaning stated below.

(a) *Classes.* The following three classes:

(1) *Lentils.* All lentils of the Chilean type, with not more than 2.0 percent of Persian Lentils.

(2) *Persian Lentils.* All lentils of the Persian type, with not more than 2.0 percent of (Chilean) Lentils.

(3) *Mixed Lentils.* Any mixture of lentils consisting predominantly of (Chilean) Lentils or of Persian Lentils, which contains more than 2.0 percent of lentils other than those of the predominating class.

(b) *Damaged lentils.* Whole and pieces of lentils which are distinctly damaged by frost, weather, disease, heat (other than to a material extent) or other causes, except weevil or material heat damage or are distinctly soiled or stained by nightshade, dirt, or toxic material.

(c) *Defective lentils (total).* The categories of defective lentils shall be weevil-damaged lentils, heat-damaged lentils, damaged lentils, and split lentils.

(d) *Dockage.* Small underdeveloped lentils, pieces of lentils, and all matter other than lentils which can be readily removed by use of sieves and cleaning devices as set forth in the Inspection Handbook for Dry Peas, Split Peas, and Lentils (see § 68.606).

(e) *Dockage-free lentils.* Lentils from which the dockage has been removed.

(f) *Fair color lentils.* Lentils that are not of good color.

(g) *Foreign material in dockage-free lentils.* All matter other than lentils, and including detached seedcoats.

(h) *Foreign material in thresher-run lentils.* All matter other than lentils, and including detached seedcoats, which cannot be readily removed in the proper determination of dockage.

(i) *Good color lentils.* Lentils that in mass are practically free from discoloration and have the natural color and appearance characteristic of the predominating lentils.

(j) *Heat-damaged lentils.* Whole and pieces of lentils which have been materially discolored as a result of heating.

(k) *Lentils (Lentils, Persian Lentils, or Mixed Lentils).* Threshed seeds of the lentil plant (*Lens culinaris* Moench) which after removal of the dockage contain 50.0 percent or more of whole lentils and not more than 10.0 percent foreign material.

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[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

(l) *Skinned lentils.* Lentils from which three-fourths or more of the seedcoat has been removed.

(m) *Split lentils.* Pieces of lentils which are less than three-fourths of a lentil, and lentils in which the cotyledons are loosely held together.

(n) *Stones.* Concreted earthy or mineral matter, and other substances of similar hardness that do not readily disintegrate in water.

(o) *Thresher-run lentils.* Lentils from which the dockage has not been removed.

(p) *Weevil-damaged lentils.* Whole and pieces of lentils which are distinctly damaged by weevils or other insects.

(q) *Whole lentils.* Lentils with one-fourth or less of the cotyledons removed and with the remainder of the cotyledons firmly held together.

(r) *9/64 round-hole sieve.* A metal sieve 0.0319 inch thick, perforated with round holes 0.1406 (9/64) inch in diameter which are 0.1875 (3/16) inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

(s) *12/64 round-hole sieve.* A metal sieve 0.0319 inch thick, perforated with round holes 0.1875 (12/64) inch in diameter, which are 0.250 (1/4) inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

(t) *15/64 round-hole sieve.* A metal sieve 0.0319 inch thick, perforated with round holes 0.2343 (15/64) inch in diameter, which are 0.3125 (5/16) inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

[36 FR 22142, Nov. 20, 1971, as amended at 47 FR 34517, Aug. 10, 1982]

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 68.602 Basis of determinations.

(a) All factor determinations shall be made upon the basis of the lentils after the removal of dockage, with the following exceptions:

(1) Dockage shall be determined upon the basis of the thresher-run lentils as sampled.

(2) Color shall be determined after removal of dockage, defective peas, and foreign material.

(b) Defects in lentils shall be scored in accordance with the order shown in § 68.601(c) and once an individual lentil is scored in a defective category it shall not be scored for any other defect but it shall remain as a part of the sample for purposes of determining the percentages of other defects in the sample.

§ 68.603 Moisture.

Moisture content shall be determined by the use of equipment and procedures set forth in the Equipment Handbook, or by any method which gives equivalent results (see § 68.606).

[36 FR 22142, Nov. 20, 1971, as amended at 47 FR 34517, Aug. 10, 1982]

§ 68.604 Percentages.

All percentages shall be determined on the basis of weight and shall be rounded off in accordance with instructions shown in the Inspection Handbook for Dry Peas, Split Peas, and Lentils (see § 68.606). Percentages, except for classes in "Mixed Lentils," shall be stated in whole and tenth percent to the nearest tenth percent. The percentages for each class in "Mixed Lentils" shall be stated to the nearest whole percent.

[36 FR 22142, Nov. 20, 1971, as amended at 47 FR 34517, Aug. 10, 1982]

§ 68.605 Interpretive line samples.

Interpretive line samples showing the official scoring line for factors that are determined by visual observation shall be maintained by the Federal Grain Inspection Division, U.S. Department of Agriculture, and shall be available for reference in all inspection offices that inspect and grade lentils.

[36 FR 22142, Nov. 20, 1971, as amended at 47 FR 34517, Aug. 10, 1982]

§ 68.606 References.

The following publications are referenced in these standards and copies will be made available upon request to the Federal Grain Inspection Service, U.S. Department of Agriculture.

(a) Equipment Handbook, U.S. Department of Agriculture, Federal Grain Inspection Service.

(b) Inspection Handbook for Dry Peas, Split Peas and Lentils, U.S. Department of Agriculture, Federal Grain Inspection Service.

[47 FR 34517, Aug. 10, 1982]

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 68.607 Grades and grade requirements for dockage-free lentils.

(See also § 68.609.)

Grade	Maximum limits of					Minimum requirements—color
	Defective lentils			Foreign material		
	Total (percent)	Weevil-damaged lentils (percent)	Heat-damaged lentils (percent)	Total (percent)	Stones (percent)	
U.S. No. 1	2.0	0.3	0.2	0.2	0.1	Good.
U.S. No. 2	3.5	0.8	0.5	0.5	0.2	Fair.

U.S. Sample grade—U.S. Sample grade shall be lentils which:

(a) Do not meet the requirements for the grades U.S. Nos. 1 or 2; or

(b) Contain more than 14.0 percent moisture, live weevils or other live insects, metal fragments, broken glass, or a commercially objectionable odor; or

(c) Are materially weathered, heating, or distinctly low quality; or

(d) Contain more than 15.0 percent skinned lentils.

[47 FR 6246, Feb. 11, 1982]

§ 68.608 Grade designation for dockage-free lentils.

The grade designation for dockage-free lentils shall include, in the order named, the letters "U.S."; the number of the grade or the words "Sample grade" when applicable; the name of each applicable special grade; and the name of the class. The grade designation for the class Mixed Lentils shall include, following the words "Mixed Lentils," the name and approximate percentage of each class of lentils in the mixture, in the order of predominance.

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 68.609 Special grades and requirements.

The following special grades shall be applicable:

(a) *Large lentils.* Lentils of the class Lentils of which not more than 3.0 percent will readily pass through a $^{15}/_{64}$ round-hole sieve.

(b) *Small lentils.* Lentils of the class Lentils of which 95 percent or more will readily pass through a $^{15}/_{64}$ round-hole sieve, not less than 80 percent will readily pass through a $^{13}/_{64}$ round-hole sieve, and not more than 3 percent will readily pass through a $^{9}/_{64}$ round-hole sieve.

§ 68.610 Special grade designation.

Large lentils and Small lentils shall be graded and designated according to the grade requirements of the standards otherwise applicable to lentils, and there shall be added to and made a part of the grade designation preceding the name of the class, the applicable term "Large" or "Small."

§ 68.611 Thresher-run lentils.

Thresher-run lentils shall be inspected without reference to grade in accordance with instructions shown in the Inspection Handbook for Dry Peas, Split Peas, and Lentils (see § 68.606).

(a) Factor determinations: Thresher-run lentils may be inspected for the following factors: Class, dockage, weevil-damaged lentils, heat-damaged lentils, damaged lentils, split lentils, foreign material, and color description.

(b) The percentage of defective lentils and foreign material shall be combined and shown on the certificate as "total defects and foreign material."

[36 FR 22142, Nov. 20, 1971, as amended at 47 FR 34517, Aug. 10, 1982]

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS AND U.S. CLASSES, STANDARDS, AND GRADES

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STANDARDS FOR QUALITY OF READY-TO-COOK POULTRY

70.220 A Quality.
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70.270 U.S. Procurement Grade I.
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70.310 General.

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70.320 A quality.
70.321 B quality.
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UNITED STATES CONSUMER GRADES FOR READY-TO-COOK RABBITS

70.330 U.S. Grade A.
70.331 U.S. Grade B.
70.332 U.S. Grade C.

AUTHORITY: Secs. 202-208 of the Agricultural Marketing Act of 1946, as amended, (60 Stat. 1087-1091; 7 U.S.C. 1621-1627).

SOURCE: 41 FR 23681, June 11, 1976, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981.

EDITORIAL NOTE: Nomenclature changes to Part 70 appear at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981.

Subpart A—Grading of Poultry Products and Rabbit Products

GENERAL

§ 70.1 Definitions.

Unless the context otherwise requires, the following terms shall have the following meaning:

"Acceptable" means suitable for the purpose intended and acceptable to the Service.

"Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended;

7 U.S.C. 1621 et seq.) or any other act of Congress conferring like authority.

"Administrator" means the Administrator of the Agricultural Marketing Service of the Department or any other officer or employee of the Department to whom there has heretofore been delegated or to whom there may hereafter be delegated the authority to act in his stead.

"Applicant" means any interested person who requests any grading service.

"Carcass" means any poultry or rabbit carcass.

"Chief of the Grading Branch" means Chief of the Poultry Grading Branch, Poultry Division, Agricultural Marketing Service.

"Class" means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind.

"Condition" means any condition, including but not being limited to, the state of preservation, cleanliness, or soundness of any product; or any condition, including but not limited to the processing, handling, or packaging which affects such product.

"Condition and wholesomeness" means the condition of any product and its healthfulness and fitness for human food.

"Department" means the United States Department of Agriculture.

"Free from protruding pinfeathers" means that a poultry carcass is free from protruding pinfeathers which are visible to a grader during an examination of the carcass at normal operating speeds. However, a carcass may be considered as being free from protruding pinfeathers if it has a generally clean appearance (especially on the breast), and if not more than an occasional protruding pinfeather is in evidence during a more careful examination of the carcass.

"Giblets" means the following poultry organs when properly trimmed and washed: The liver from which the bile sac has been removed, the heart from which the pericardial sac has been removed, and the gizzard from which the lining and contents have been removed. With respect to rabbits "giblets" means the liver from which the bile sac has been removed and the heart from which the pericardial sac has been removed.

"Grader" means any Federal or State employee or the employee of a local jurisdiction or cooperating agency to whom a license has been issued by the Secretary to investigate and certify in accordance with the regulations in this part the class, quality, quantity, or condition of products.

"Grading" or "grading service" means: (a) The act whereby a grader determines, according to the regulations in this part the class, quality, quantity, or condition of any product by examining each unit thereof or each unit of the representative sample thereof drawn by a grader, and issues a grading certificate with respect thereto, except that with respect to grading service performed on a resident basis, the issuance of a grading certificate shall be pursuant to a request therefor by the applicant or the Service; (b) the act whereby the grader identifies, according to the regulations in this part, the graded product; (c) with respect to any official plant, the act whereby a grader determines that the product in such plant was processed, handled, and packaged in accordance with § 70.110, or (d) any regrading or any appeal grading of a previously graded product.

"Grading certificate" means a statement, either written or printed, issued by a grader, pursuant to the regulations in this part, relative to the class, quality, quantity, or condition of a product.

"Holiday" or "Legal Holiday" shall mean the legal public holidays specified by the Congress in paragraph (a) of section 6103, Title 5, of the United States Code.

"Identify" means to apply official identification to products or the containers thereof.

"National supervisor" means (a) the officer in charge of the poultry grading service of the Agricultural Marketing Service, and (b) other officers and employees of the Department designated by the officer in charge of the poultry grading service of the Agricultural Marketing Service.

"Office of grading" means the office of any grader.

"Official plant" or "official establishment" means one or more buildings or parts thereof comprising a single plant in which the facilities and methods of operation therein have been approved by the Administrator as suitable and adequate for grading service and in which grading is carried on in accordance with the regulations in this part.

"Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

"Poultry" means any kind of domesticated bird, including, but not being limited to, chickens, turkeys, ducks, geese, pigeons, and guineas.

"Poultry food product" means any article of human food or any article intended for or capable of being so used, which is prepared or derived in whole or in substantial part, from any edible part or parts of poultry.

"Poultry product" means any ready-to-cook poultry carcass or part therefrom or any specified poultry food product.

"Poultry grading service" means the personnel who are actively engaged in the administration, application, and direction of poultry and rabbit grading programs and services pursuant to the regulations in this part.

"Quality" means the inherent properties of any product which determine its relative degree of excellence.

"Rabbit" means any domesticated rabbit whether live or dead.

"Rabbit product" means any ready-to-cook rabbit carcass or part therefrom.

"Ready-to-cook poultry" means any dressed poultry from which the protruding pinfeathers, vestigial feathers (hair or down as the case may be), head, shanks, crop, oil gland, trachea, esophagus, entrails, reproductive organs, and lungs have been removed, and with or without the giblets, and which is ready to cook without need of further processing. Ready-to-cook poultry also means any cut-up or disjointed portion of such poultry, or any edible part thereof.

"Ready-to-cook rabbit" means any rabbit which has been slaughtered for human food, from which the head, blood, skin, feet, and inedible viscera have been removed, that is ready to cook without need of further processing. Ready-to-cook rabbit also means any cut-up or disjointed portion of rabbit or any edible part thereof.

"Regional director" means any employee of the Department in charge of poultry grading service in a designated geographical area.

"Regulations" means the provisions of this entire part and such United States classes, standards, and grades for products as may be in effect at the time grading is performed.

"Secretary" means the Secretary of the Department, or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

"Service" means the Agricultural Marketing Service of the Department.

"Soundness" means freedom from external evidence of any disease or condition which may render a carcass or product unfit for food.

"State supervisor" or "Federal-State supervisor" means any authorized and designated individual who is in charge of the poultry grading service in a State.

[41 FR 23681, June 11, 1976; 41 FR 24693, June 18, 1976. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46071, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

§ 70.2 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Pub. L. 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks, or other identification and devices for making such marks or identifications, issued or authorized under section 203 of said Act, and certain misrepresentations concerning the grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed in this section shall have the respective meaning specified:

(a) "Official certificate" means any form of certification, either written or printed, used under this part to certify with respect to the sampling, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading or sampling pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading or sampling under this part, and any report made by an authorized person of services performed pursuant to this part.

(c) "Official mark" means the grademark and any other mark, or any variations in such marks, approved by the Administrator and authorized to be affixed to any product or affixed to or printed on the packaging material of any product, stating that the product was graded or indicating the appropriate U.S. Grade or condition of the product, or for maintaining the identity of products graded under this part, including but not limited to, those marks set forth in § 70.51.

(d) "Official identification" means any United States (U.S.) standard designation of class, grade, quality, size, quantity, or condition specified in this part or any symbol, stamp, label, or seal indicating that the product has been officially graded and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

§ 70.3 Administration.

The Administrator shall perform for and under the supervision of the Secretary such duties as are prescribed in the regulations in this part and as the Secretary may require in the administration of the regulations in this part. The Administrator is authorized to waive for limited periods any particular provisions of the regulations to permit experimentation so that new procedures and grading techniques may be tested to facilitate definite improvements and at the same time to determine full compliance with the spirit and intent of the regulations. The Agricultural Marketing Service and its officers and employees shall not be liable in damages through acts of commission or omission in the administration of this part.

§ 70.4 Grading services available.

The regulations in this part provide for the following kinds of service; and any one or more of the different services applicable to official plants may be rendered in an official plant:

(a) Grading of ready-to-cook poultry and rabbits in an official plant or at other locations with adequate facilities.

(b) Grading of specified poultry food products in official plants.

§ 70.5 Nondiscrimination.

The conduct of all services and the licensing of graders and inspectors under these regulations shall be accomplished without discrimination as to race, color, religion, sex, or national origin.

§ 70.6 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection requirements by the Office of Management and Budget contained in 7 CFR Part 70 pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511.

(b) *Display.*

7 CFR section where identified and described	Current OMB control No.
70.10	0581-0127
70.18	0581-0127
70.20(a)	0581-0127
70.21	0581-0127
70.22	0581-0127
70.31(a)	0581-0127

7 CFR section where identified and described	Current OMB control No.
70.31(b)	0581-0127
70.33	0581-0127
70.34	0581-0127
70.35	0581-0127
70.36	0581-0127
70.36(c)	0581-0127
70.36(d)	0581-0127
70.50	0581-0127
70.61	0581-0127
70.73	0581-0127
70.76(b)(1)	0581-0127
70.76(b)(3)(ii)	0581-0127
70.77(a)(1)	0581-0127
70.77(b)(1)	0581-0127
70.77(b)(3)(ii)	0581-0127
70.91(a)	0581-0127
70.91(c)	0581-0127
70.92	0581-0127
70.100	0581-0127
70.102	0581-0127
70.210(e)	0581-0127
70.310(e)	0581-0127

[48 FR 56566, Dec. 22, 1983, as amended at 49 FR 25222, June 20, 1984]

BASIS OF SERVICE

§ 70.10 Grading service.

Any grading service in accordance with the regulations in this part shall be for class, quality, quantity, or condition or any combination thereof. Grading service with respect to determination of quality of products shall be on the basis of United States classes, standards, and grades as contained in Subparts B and C of this part. However, grading service may be rendered with respect to products which are bought and sold on the basis of institutional contract specifications or specifications of the applicant, and such service, when approved by the Administrator, shall be rendered on the basis of such specifications.

§ 70.11 [Reserved]

§ 70.12 Supervision.

All grading service shall be subject to supervision at all times by the responsible State supervisor, regional director, and national supervisor. Such service shall be rendered in accordance with instructions issued by the Administrator where the facilities and conditions are satisfactory for the conduct of the service and the requisite graders are available. Whenever the supervisor of a grader has evidence that such grader incorrectly graded a product, such supervisor shall take such action as is necessary to correct the grading and to cause any improper grademarks which appear on the product or containers thereof to be corrected prior to shipment of the product from the place of initial grading.

§ 70.13 Ready-to-cook poultry and rabbits and specified poultry food products; eligibility.

Only ready-to-cook poultry and rabbits and specified poultry food products which are inspected and passed by the poultry inspection service of the U.S. Department of Agriculture or by any other official inspection system acceptable to the Department may be graded.

§ 70.14 Squabs and domesticated game birds; eligibility.

Squabs and domesticated game birds (including, but not being limited to, quail, pheasants, and wild species of ducks and geese raised in captivity) may be graded under the regulations in this part, only if they have been inspected and passed by the poultry inspection service of the U.S. Department of Agriculture or have been inspected by any other official inspection system acceptable to the Department.

§ 70.15 Equipment and facilities to be furnished for use of graders in performing service on a resident basis.

Such equipment and facilities shall include but not be limited to:

(a) An accurate metal stem thermometer.

(b) A drill with a steel bit to drill holes in frozen product for inserting the metal thermometer stem to determine temperature.

(c) Scales graduated in ounces or less for weighing individual birds and test weights for such scales.

(d) Scales graduated in ounces for weighing bulk containers of poultry and test weights for such scales.

(e) Furnished adequate office space, a desk equipped with a satisfactory locking device, lockers or cabinets suitable for the protection and storage of official supplies and facilities suitable for graders to change clothing.

§ 70.16 Prerequisites to grading.

Grading of products shall be rendered pursuant to the regulations in this part and under such conditions and in accordance with such methods as may be prescribed or approved by the Administrator.

§ 70.17 Accessibility of products.

Each product for which grading service is requested shall be so placed as to disclose fully its class, quality, quantity, and condition as the circumstances may warrant.

§ 70.18 Schedule of operation of official plants.

Grading operation schedules for services performed pursuant to §§ 70.76 and 70.77 shall be requested in writing and be approved by the Administrator. Normal operating schedules for a full week consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week, within the administrative workweek, Sunday through Saturday, for each shift required. Less than 8-hour schedules may be requested and will be approved if a grader is available. Clock hours of daily operations need not be specified in the request, although as a condition of continued approval, the hours of operation shall be reasonably uniform from day to day. Graders are to be notified by management 1 day in advance of any change in the hours grading service is requested.

[48 FR 20683, May 9, 1983]

PERFORMANCE OF SERVICES

§ 70.20 Licensed or authorized graders.

(a) Any person who is a Federal or State employee, the employee of a local jurisdiction, or the employee of a cooperating agency possessing proper qualifications as determined by an examination for competency and who is to perform grading service under this part may be licensed by the Secretary as a grader.

(b) All licenses issued by the Secretary shall be countersigned by the officer in charge of the poultry grading service of the Agricultural Marketing Service or any other designated officer of such Service.

(c) Any person who is employed by any official plant and possesses proper qualifications as determined by the Administrator may be authorized to grade poultry and/or rabbits on the basis of the U.S. classes, standards, and grades under the supervision of a grader. No person to whom such authorization is granted shall have authority to issue any grading certificates, grading memoranda, or other official documents; and all products graded by any such person shall thereafter be check graded by a grader.

§ 70.21 Suspension of license; revocation.

Pending final action by the Secretary, any person authorized to countersign a license to perform grading service may, whenever he deems such action necessary to assure that any grading services are properly performed, suspend any license to perform grading service issued pursuant to this part, by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within 7 days after the receipt of the aforesaid notice and statement of reasons, the licensee may file an appeal in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be further suspended or revoked. After the expiration of the aforesaid 7-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 7 days, the license to perform grading service is revoked.

§ 70.22 Surrender of license.

Each license which is suspended or revoked shall immediately be surrendered by the licensee to the office of grading serving the area in which he is located. Upon termination of the services of a licensed grader, the licensee shall surrender his license immediately for cancellation.

§ 70.23 Identification.

Each grader shall have in his possession at all times, and present upon request while on duty, the means of identification furnished by the Department to such person.

§ 70.24 Financial interest of graders.

No grader shall render service on any product in which he is financially interested.

§ 70.25 Political activity.

All graders are forbidden, during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including, but not being limited to, temporary and cooperative employees and employees on leave of absence with or without pay. Willful violation of this section will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

[41 FR 23681, June 11, 1976. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, as amended at 48 FR 20683, May 9, 1983]

APPLICATION FOR GRADING SERVICE

§ 70.30 Who may obtain grading service.

An application for grading service may be made by any interested person, including, but not being limited to, the United States, any State, county, municipality, or common carrier, and any authorized agent of the foregoing.

§ 70.31 How application for service may be made; conditions of service.

(a) *Noncontinuous grading service on a fee basis.* An application for any noncontinuous grading service on a fee basis may be made in any office of grading or with any grader at or nearest the place where the service is desired. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If the application for grading service is made orally, the office of grading or the grader with whom such application is made or the Administrator may require that the application be confirmed in writing.

(b) *Continuous grading service on a resident basis or continuous grading service on a nonresident basis.* An application for continuous grading service on a resident basis or for continuous grading service on a nonresident basis must be made in writing on forms approved by the Administrator and filed with the Administrator. Such forms may be obtained at the national, regional, or State grading office. In making application, the applicant agrees to comply with the terms and conditions of the regulations (including, but not being limited to, such instructions governing grading of products as may be issued from time to time by the Administrator). No member of or Delegate to Congress or Resident Commissioner shall be admitted to any benefit that may arise from such service unless derived through service rendered a corporation for its general benefit.

§ 70.32 Filing of application.

An application for grading service shall be regarded as filed only when made pursuant to the regulations in this part.

§ 70.33 Authority of applicant.

Proof of the authority of any person applying for grading service may be required at the discretion of the Administrator.

§ 70.34 Application for grading service in official plants; approval.

Any person desiring to process and pack products in a plant under grading service must receive approval of such plant and facilities as an official plant prior to the rendition of such service. An application for grading service to be rendered in an official plant shall be approved according to the following procedure: *Survey.* When application has been filed for grading service, as aforesaid, the State supervisor or his assistant shall examine the grading office, facilities, and equipment and specify any additional facilities or equipment needed for the service. When the plant survey for poultry or rabbit grading has been completed and approved in accordance with the regulations in this part, service may be installed.

§ 70.35 Rejection of application.

Any application for grading service may be rejected by the Administrator (a) whenever the applicant fails to meet the requirements of the regulations prescribing the conditions under which the service is made available; (b) whenever the product is owned by or located on the premises of a person currently denied the benefits of the Act; (c) where any individual holding office or a responsible position with or having a substantial financial interest or share in the applicant, is currently denied the benefits of the Act, or was responsible in whole or in part for the current denial of the benefits of the Act to any person; (d) where the Administrator determines that the application is an attempt on the part of a person currently denied the benefits of the Act to obtain grading service; (e) whenever the applicant, after an initial survey has been made in accordance with § 70.34, fails to bring the grading facilities and equipment into compliance with the regulations within a reasonable period of time; or (f) notwithstanding any prior approval whenever, before inauguration of service, the applicant fails to fulfill commitments concerning the inauguration of the service. Each such applicant shall be promptly notified by registered mail of the reasons for the rejection. A written petition for reconsideration of such rejection may be filed by the applicant with the Administrator if postmarked or delivered within 10 days after receipt of notice of the rejection. Such petition shall state specifically the errors alleged to have been made by the Administrator in rejecting the application. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall approve the application or notify the applicant by registered mail of the reasons for the rejection thereof.

§ 70.36 Withdrawal of application.

Any application for grading service may be withdrawn by the applicant at any time before the service is performed upon payment by the applicant, of all expenses incurred by the Service in connection with such application.

§ 70.37 Order of service.

Grading service shall be performed, insofar as practicable and subject to the availability of qualified graders, in the order in which applications therefor are made, except that precedence may be given to any application for an appeal grading.

§ 70.38 Suspension or withdrawal of plant approval for correctable cause.

(a) Any plant approval given pursuant to the regulations in this part may be suspended by the Administrator for (1) failure to maintain grading facilities and equipment in a satisfactory state of repair, sanitation, or cleanliness; (2) the use of operating procedures which are not in accordance with the regulations in this part; or (3) alterations of grading facilities or equipment which have not been approved in accordance with the regulations in this part.

(b) Whenever it is feasible to do so, written notice in advance of a suspension shall be given to the person concerned and shall specify a reasonable period of time in which corrective action must be taken. If advance written notice is not given, the suspension action shall be promptly confirmed in writing and the reasons therefor shall be stated, except in instances where the person has already corrected the deficiency. Such service, after appropriate corrective action is taken, will be restored immediately, or as soon thereafter as a grader can be made available. During such period of suspension, grading service shall not be rendered. However, the other provisions of the regulations pertaining to providing service on a resident basis will remain in effect unless such service is terminated in accordance with the provisions of this part.

(c) If the grading facilities or methods of operation are not brought into compliance within a reasonable period of time as specified by the Administrator, he shall initiate withdrawal action pursuant to the Rules of Practice Governing Withdrawal of Inspection and Grading Service (7 CFR Part 1, Subpart H), and the operator shall be afforded an opportunity for an oral hearing upon his written request in accordance with such Rules of Practice, with respect to the merits or validity of the withdrawal action, but any suspension shall continue in effect pending the outcome of such hearing unless otherwise ordered by the Administrator. Upon withdrawal of grading service in an official plant, the plant approval shall also become terminated, and all labels, seals, tags, or packaging material bearing official identification shall, under the supervision of a person designated by the service, either be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the service.

(d) In any case where grading service is withdrawn under this § 70.38, the person concerned may thereafter apply for grading service as provided in §§ 70.30 through 70.37 of these regulations.

[41 FR 23681, June 11, 1976. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60139, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

DENIAL OF SERVICE

§ 70.40 Debarment.

The acts or practices set forth in §§ 70.41 through 70.46, or the causing thereof, may be deemed sufficient cause for the debarment by the Administrator of any person, including any agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the Act for a specified period. The rules of practice governing withdrawal of grading services in formal adjudicatory proceedings instituted by the Secretary (7 CFR, Part 1, Subpart H) shall be applicable to such debarment action.

[41 FR 23681, June 11, 1976. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60139, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 70.41 Misrepresentation, deceptive, or fraudulent acts or practices.

Any willful misrepresentation or any deceptive or fraudulent act or practice found to be made or committed by any person in connection with:

(a) The making or filing of any application for any grading service, appeal or regrading service;

(b) The making of the product accessible for grading;

(c) The making, issuing, or using, or attempting to issue or use any grading certificate, symbol, stamp, label, seal, or identification, authorized pursuant to the regulations in this part;

(d) The use of the terms "United States" or "U.S." in conjunction with the grade of the product;

(e) The use of any of the aforesaid terms or any official stamp, symbol, label, seal, or identification in the labeling or advertising of any product.

[41 FR 23681, June 11, 1976; 41 FR 24693, June 18, 1976. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 70.42 Use of facsimile forms.

Using or attempting to use a form which simulates in whole or in part any certificate, symbol, stamp, label, seal, or identification authorized to be issued or used under the regulations in this part.

§ 70.43 Willful violation of the regulations.

Any willful violation of the regulations in this part or the Act.

§ 70.44 Interfering with a grader or employee of Service.

Any interference with or obstruction or any attempted interference or obstruction of, or assault upon any grader, licensee, or employee of the Service in the performance of his duties. The giving or offering, directly or indirectly, of any money, loan, gift, or anything of value to an employee of the Service, or the making or offering of any contribution to or in any way supplementing the salary, compensation, or expenses of an employee of the Service, or the offering or entering into a private contract or agreement with an employee of the Service for any services to be rendered while employed by the Service.

§ 70.45 Misleading labeling.

The use of the terms "Government Graded" and "Federal-State Graded" or terms of similar import in the labeling or advertising of any product without stating in the labeling or advertisement the U.S. grade of the product as determined by an authorized grader.

§ 70.46 Miscellaneous.

The existence of any of the conditions set forth in § 70.35 constituting a basis for the rejection of an application for grading service.

IDENTIFYING AND MARKING PRODUCTS

§ 70.50 Approval of official identification and wording on labels.

Any label or packaging material which bears any official grade identification shall be used only in such a manner as the Administrator may prescribe, and such labeling or packaging materials, including the wording used on such materials, shall be approved in accordance with and conform with the provisions of this Part 70 and the applicable provisions of §§ 381.115 through 381.141 of 9 CFR Part 381. Poultry Products Inspection Regulations. Labeling requirements for ready-to-cook rabbits, except for the product name, shall be the same as for ready-to-cook poultry. For ready-to-cook rabbits the class name shall be shown on the label. The appropriate designation, "young," "mature," or "old," may be used as a prefix to the word "rabbit" in lieu of the class name.

[41 FR 23681, June 11, 1976; 41 FR 24694, June 18, 1976. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 70.51 Marking graded products.

(a) *Information required on grademark.* Except as otherwise authorized by the Administrator, each grademark, which is to be used, shall include the letters "USDA" and the U.S. Grade of the product it identifies, such as "U.S. A Grade," and such information shall be printed in a light color on a dark field. In addition, a term, such as "Federal-State Graded," or "Government Graded," may be used adjacent to but not within the grademark.

(b) *Form of official identification symbol and grademark.* (1) The shield set forth in Figure 1, containing the letters "USDA" shall be the official identification symbol for purposes of this part, and when used, imitated, or simulated in any manner in connection with poultry or rabbits, shall be deemed prima facia to constitute a representation that the product has been officially graded for the purposes of § 70.2.

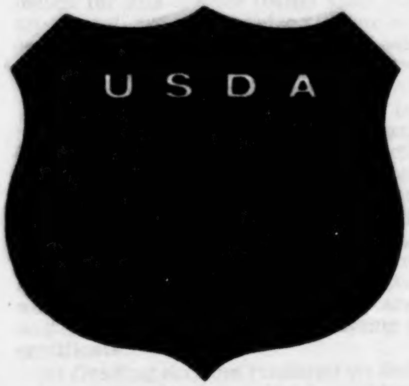

FIGURE 1.

(2) Except as otherwise authorized, the grademark permitted to be used to officially identify consumer graded poultry and rabbit products, shall be of the form and design indicated in Figure 2 or 3 of this section. The shield shall be of sufficient size so that the print and other information contained therein is distinctly legible and in approximately the same proportion and size as shown in Figures 2 and 3.

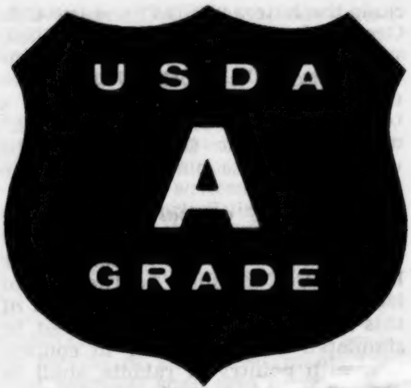

FIGURE 2.

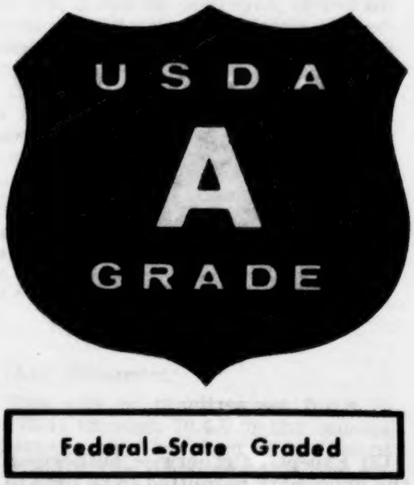

FIGURE 3.

(c) *Products that may be individually grade marked.* The grademarks set forth in Figures 2 and 3 may be applied individually to ready-to-cook poultry and rabbits and specified poultry food products for which consumer grades are provided in Subparts B and C of this part, or to the containers in which such products are enclosed for the purpose of display and sale to household consumers, only when such products qualify for the particular grade indicated in accordance with the consumer grades.

(d) *Identification of U.S. Grade A—For Further Processing.* The grademark indicated in Figure 4, below, is restricted to turkeys meeting the requirements of § 70.260. The grademark may be applied only to master shipping containers and not to individual birds. The block containing the words "For Further Processing" in Figure 4 shall be located as indicated and shall be at least as wide and at least ¼ as high as the height of the grademark. The words "For Further Processing" shall be in the same boldness of type as the wording in the grademark.

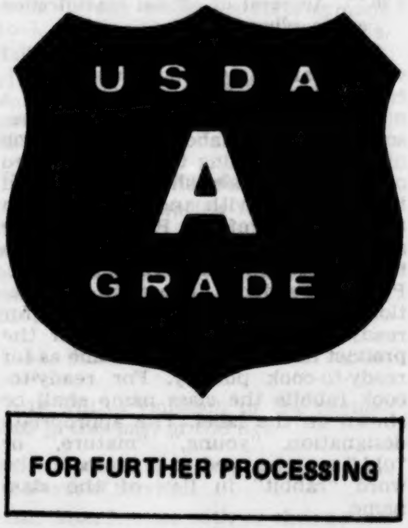

FIGURE 4.

§ 70.52 Prerequisites to packaging ready-to-cook poultry or rabbits identified with consumer grademarks.

The official identification of any graded product as provided in §§ 70.50 and 70.51 shall be done only under the supervision of a grader. The grader shall have supervision over the use and handling of all material bearing any official identification.

§ 70.54 Retention authorities.

A grader may use retention tags or other devices and methods as approved by the Administrator for the identification and control of poultry or rabbit products which are not in compliance with the regulations or are held for further examination. Any such item shall not be released until in compliance with the regulations and retention identification shall not be removed by anyone other than a grader.

§ 70.55 Check grading officially identified product.

Officially identified poultry or rabbit products may be subject to final check grading prior to their shipment. Such product found not to be in compliance with the assigned official grade shall be placed under a retention tag until it is regraded to comply with the grade assigned or until the official identification is removed.

REPORTS

§ 70.60 Report of grading work.

Reports of the work of grading carried on within official plants shall be forwarded to the Administrator by the grader in such manner as may be specified by the Administrator.

§ 70.61 Information to be furnished to graders.

The applicant for grading service shall furnish to the grader rendering such service such information as may be required for the purposes of this part.

[47 FR 46071, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

§ 70.62 Reports of violations.

Each grader shall report, in the manner prescribed by the Administrator, all violations of and noncompliance with the Act and the regulations in this part of which he has knowledge.

FEES AND CHARGES

§ 70.70 Payment of fees and charges.

(a) Fees and charges for any grading service shall be paid by the interested party making the application for such service in accordance with the applicable provisions of this section and §§ 70.71 through 70.78 inclusive. If so required by the grader, such fees and charges shall be paid in advance.

(b) Fees and charges for any grading service shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by check, draft, or money order payable to the Agricultural Marketing Service and remitted promptly to the Service.

(c) Fees and charges for any grading under a cooperative agreement with any State or person shall be paid in accordance with the terms of such cooperative agreement.

§ 70.71 On a fee basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service (other than for an appeal grading) performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be $21.88 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $23.68 per hour. Information on legal holidays is available from the Supervisor.

[41 FR 23681, June 11, 1976. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 49571, Oct. 7, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 50 FR 3737, Jan. 28, 1985; 50 FR 10750, Mar. 18, 1985]

§ 70.72 Fees for appeal grading, laboratory analysis, or examination or review of a grader's decision.

The costs of an appeal grading, laboratory analysis, or examination or review of a grader's decision will be borne by the appellant at an hourly rate of $19.92 for the time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading, laboratory analysis, or examination or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

(Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*); Egg Products Inspection Act (21 U.S.C. 1031-1056))

[50 FR 3737, Jan. 28, 1985; 50 FR 10750, Mar. 18, 1985]

§ 70.73 Laboratory analysis.

Fees and charges for any laboratory analysis or examination performed by the Poultry Division in connection with the grading of poultry or poultry products, or rabbits or rabbit products made under this part shall be assessed and collected in accordance with the provisions for fees and charges for such services as contained in Part 55 of this chapter.

[41 FR 23681, June 11, 1976. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60139, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46071, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

§ 70.75 Travel expenses and other charges.

Charges are to be made to cover the cost of travel and other expenses incurred by the Service in connection with rendering grading service. Such charges shall include the cost of transportation, per diem, and any other expenses.

[42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and amended at 46 FR 9, Jan. 2, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 70.76 Charges for continuous poultry grading performed on a nonresident basis.

Fees to be charged and collected for grading service on a nonresident grading basis shall be those provided in this section. The fees to be charged for any appeal grading shall be as provided in § 70.72.

(a) *Charges.* The charges for the grading of poultry and edible products thereof shall be paid by the applicant for the service and shall include items listed in this section as are applicable. Payment for the full cost of the grading service rendered to the applicant shall be made by the applicant to the Agricultural Marketing Service, U.S. Department of Agriculture (hereinafter referred to as "AMS"). Such full costs shall comprise such of the items listed in this section as are due and included in the bill or bills covering the period or periods during which the grading service was rendered. Bills will be rendered by the 10th day following the end of the billing period in which the service was rendered and are payable upon receipt.

(1) A charge for the salary and other costs, as specified in this paragraph, for each grader while assigned to a plant, except that no charge will be made when the assigned grader is temporarily reassigned by AMS to perform grading service for other than the applicant. Base salary rates will be determined on a national average for all official plants operating in States under a Federal Trust Fund Agreement where Federal graders, State graders, or a combination of Federal and State graders are used, by averaging the salary rates paid to each Federal or State grader assigned to such plants. Charges to plants are as follows:

(i) For all regular hours of work scheduled and approved as an established tour of duty for a plant, the regular rate charge will be made. The regular rate charge will be determined by adding an amount to the base salary rate to cover the costs to AMS for such items as the Employer's Tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for Old Age and Survivor's Benefits under the Social Security System, retirement benefits, group life insurance, severance pay, sick leave, annual leave, additional salary and travel costs for relief grading service, accident payments, certain moving costs, and related servicing costs.

(ii) All hours worked by an assigned grader or another grader in excess of the approved tour of duty, or worked on a nonscheduled workday, or actually worked on a holiday in excess of the tour of duty, will be considered as overtime. The charge for such overtime will be 150 percent of the grader's base salary rate.

(iii) For work performed on a holiday which is within the established tour of duty approved for a plant, the added charge will be the same as the grader's base rate.

(iv) For work performed between 6 p.m. and 6 a.m., night differential charges (for regular, overtime, or holiday hours worked during this period) will be at the applicable rates established plus 10 percent of the base rate.

(v) For work performed on Sunday, Sunday differential charges (for regular, overtime, or holiday hours worked on Sunday) will be at the applicable rates established plus 25 percent of the base rate.

(vi) For all hours of work performed in a plant without an approved tour of duty, the charge will be one of the applicable hourly rates in § 70.71.

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $125 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

(b) *Other provisions.* (1) The applicant shall designate in writing the employees of the applicant who will be required and authorized to furnish each grader with such information as may be necessary for the performance of the grading service.

(2) AMS will provide, as available, an adequate number of graders to perform the grading service. The number of graders required will be determined by AMS based on the expected demand for service.

(3) The grading service shall be provided at designated locations and shall be continued until the service is suspended, withdrawn, or terminated by:

(i) Mutual consent;

(ii) Thirty (30) days' written notice by either the applicant or AMS specifying the date of suspension, withdrawal or termination;

(iii) One (1) day's written notice by AMS to the applicant if the applicant fails to honor any invoice within thirty (30) days after date of invoice covering the cost of the grading service; or

(iv) Action taken by AMS pursuant to the provisions of § 70.38 or § 70.40.

(4) Graders will be required to confine their activities to those duties necessary in the rendering of grading service and such closely related activities as may be approved by AMS: *Provided,* That in no instance may the graders assume the duties of management.

(5) When similar nonresident grading services are furnished to the same applicant under Part 55 or Part 56 of this chapter, the charges listed in this section shall not be repeated.

[41 FR 23681, June 11, 1976, as amended at 42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and further amended at 42 FR 57301, Nov. 2, 1977; 43 FR 60139, Dec. 26, 1978; 46 FR 9, Jan. 2, 1981; 46 FR 49572, Oct. 7, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 47 FR 745, Jan. 7, 1982; 47 FR 46071, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982; 48 FR 20683, May 9, 1983; 49 FR 2224, Jan. 19, 1984; 49 FR 10540, Mar. 21, 1984; 50 FR 23270, June 3, 1985]

§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

Fees to be charged and collected for any grading service, other than for an appeal grading, on a resident grading basis, shall be those provided in this section. The fees to be charged for any appeal grading shall be as provided in § 70.72.

(a) *Charges.* The charges for the grading of poultry and rabbits and edible products thereof shall be paid by the applicant for the service and shall include items listed in this section as are applicable. Payment for the full cost of the grading service rendered to the applicant shall be made by the applicant to the Agricultural Marketing Service U.S. Department of Agriculture (hereinafter referred to as "AMS"). Such full costs shall comprise such of the items listed in this section as are due and included in the bill or bills covering the period or periods during which the grading service was rendered. Bills will be rendered by the 10th day following the end of the billing period in which the service was rendered and are payable upon receipt.

(1) An inauguration charge of $310 will be made at the time an application for service is signed, except when the application is required because of a change in name or ownership. If service is not installed within 6 months from the date the application is filed, or if service is inactive due to an approved request for removal of a grader(s) for a period of 6 months, the application will be considered terminated, but a new application may be filed at any time. In addition, there will be a charge of $300 if the application is terminated at the request of the applicant for reasons other than for a change in location within 12 months from the date of the inauguration of service.

(2) A charge for the salary and other costs, as specified in this paragraph, for each grader while assigned to a plant, except that no charge will be made when the assigned grader is temporarily reassigned by AMS to perform grading service for other than the applicant. Base salary rates will be determined on a national average for all official plants operating in States under a Federal Trust Fund Agreement where Federal graders, State graders, or a combination of Federal and State graders are used, by averaging the salary rates paid to each Federal or State grader assigned to such plants. Charges to plants are as follows:

(i) For all regular hours of work scheduled and approved as an established tour of duty for a plant, the regular rate charge will be made. The regular rate charge will be determined by adding an amount to the base salary rate to cover the costs to AMS for such items as the Employer's Tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for Old Age and Survivor's Benefits under the Social Security System, retirement benefits, group life insurance, severance pay, sick leave, annual leave, additional salary and travel costs for relief grading service, accident payments, certain moving costs, and related servicing costs.

(ii) All hours worked by an assigned grader or another grader in excess of the approved tour of duty, or worked on a nonscheduled workday, or actually worked on a holiday in excess of the tour of duty will be considered as overtime. The charge for such overtime will be 150 percent of the grader's base salary rate.

(iii) For work performed on a holiday which is within the established tour of duty approved for a plant, the added charge will be the same as the grader's base rate.

(iv) For work performed between 6 p.m. and 6 a.m., night differential charges (for regular, overtime, or holiday hours worked during this period) will be at the applicable rates established plus 10 percent of the base rate.

(v) For work performed on Sunday, Sunday differential charges (for regular, overtime, or holiday hours worked on Sunday) will be at the applicable rates established plus 25 percent of the base rate.

(vi) For all hours of work performed in a plant without an approved tour of duty, the charge will be one of the applicable hourly rates in § 70.71.

(3) A charge at the hourly rates specified in § 70.71, plus actual travel expenses incurred by AMS for intermediate surveys to firms without grading service in effect.

(4) For poultry grading: An administrative service charge based upon the aggregate weight of the total volume of all live and ready-to-cook poultry handled in the plant per billing period computed in accordance with the following: Total pounds per billing period multiplied by $.00025, except that the minimum charge per billing period shall be $125 and the maximum charge shall be $1,250. The minimum charge also applied where an approved application is in effect and no product is handled.

(5) For rabbit grading: An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $125 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

(b) *Other provisions.* (1) The applicant shall designate in writing the employees of the applicant who will be required and authorized to furnish each grader with such information as may be necessary for the performance of the grading service.

(2) AMS will provide, as available, an adequate number of graders to perform the grading service. The number of graders required will be determined by AMS based on the expected demand for service.

(3) The grading service shall be provided at the designated plant and shall be continued until the service is suspended, withdrawn, or terminated by:

(i) Mutual consent;

(ii) Thirty (30) days' written notice by either the applicant or AMS specifying the date of suspension, withdrawal, or termination;

(iii) One (1) day's written notice by AMS to the applicant if the applicant fails to honor any invoice within thirty (30) days after date of invoice covering the cost of the grading service; or

(iv) Action taken by AMS pursuant to the provisions of § 70.38 through § 70.40.

(4) Graders will be required to confine their activities to those duties necessary in the rendering of grading service and such closely related activities as may be approved by AMS: *Provided,* That in no instance may the graders assume the duties of management.

[41 FR 23681, June 11, 1976; 41 FR 24694, June 18, 1976, as amended at 41 FR 47256, Oct. 28, 1976; 42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and amended at 42 FR 57301, Nov. 2, 1977; 43 FR 60139, Dec. 26, 1978; 46 FR 9, Jan. 2, 1981; 46 FR 49572, Oct. 7, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 745, Jan. 7, 1982; 47 FR 46071, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982; 48 FR 20683, May 9, 1983; 49 FR 2224, Jan. 19, 1984; 49 FR 10540, Mar. 21, 1984; 50 FR 23270, June 3, 1985]

§ 70.78 Fees or charges for grading service performed under cooperative agreement.

Fees or charges to be made to an applicant for any grading service which differ from those listed in §§ 70.70 through 70.77, shall be provided for by a cooperative agreement.

GRADING

§ 70.80 General.

Whenever grading service is performed on a representative sample basis, such sample shall be drawn and consist of not less than the minimum number of containers indicated in the following table and footnote. All of the poultry or rabbits in the sample containers drawn shall be examined with the exception of individual birds weighing under 6 pounds in bulk containers indicated in the footnote. (Minimum number of containers comprising a representative sample.)[1]

Containers in lot	Containers in sample
3 or less	All
4 to 20	4
21 to 100	6
101 to 500	8
501 to 1,000	15
1,001 to 2,000	25
2,001 to 4,000	40
Over 4,000	60

§ 70.81 Ready-to-cook poultry and rabbits and specified poultry food products.

(a) Ready-to-cook poultry or rabbit carcasses or parts or specified poultry food products may be graded only if they have been inspected and certified by the poultry inspection service of the U.S. Department of Agriculture, or inspected and passed by any other inspection system which is acceptable to the Department.

(b) Only when ready-to-cook poultry carcasses or parts, including those used in the fabrication of poultry food products, have been graded on an individual basis by a grader or by an authorized person pursuant to § 70.20(c) and thereafter checkgraded by a grader, and when fabrication of the poultry food products has been done under supervision of a grader, may the container or the individual carcass or part or poultry food product be identified with the appropriate official letter grademark. Checkgrading will be accomplished in accordance with a statistical sampling plan prescribed by the Administrator. Grading with respect to quality factors for freezing defects and appearance of the finished products may be done on a sample basis in accordance with a plan prescribed by the Administrator.

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[1] For large bulk containers containing poultry (combo bins, tanks, etc.) where individual birds weigh over 6 pounds, the representative sample may be reduced by one-half. Where individual birds weigh under 6 pounds, 100 birds may be selected from each container in the representative sample.

(c) Only when ready-to-cook rabbit carcasses or parts have been graded on an individual basis by a grader or by an authorized person pursuant to § 70.20(c) and thereafter checkgraded by a grader, may the container or the individual carcass or part be identified with the appropriate official letter grademark. Checkgrading will be accomplished in accordance with a statistical sampling plan prescribed by the Administrator. Grading with respect to quality factors for freezing defects and appearance of the finished products may be done on a sample basis in accordance with a plan prescribed by the Administrator.

GRADING CERTIFICATES

§ 70.90 Forms.

Grading certificates (including appeal grading certificates and regrading certificates) shall be issued on forms approved by the Administrator.

§ 70.91 Issuance and disposition.

(a) *Resident grading basis.* Certificates will be issued only upon a request therefor by the applicant or the Service. When requested, a grader shall issue a certificate covering product graded by him. In addition, a grader may issue a grading certificate covering product graded in whole or in part by another grader when the grader has knowledge that the product is eligible for certification based on personal examination of the product or official grading records.

(b) *Other than resident grading.* Each grader shall, in person or by his authorized agent, issue a grading certificate covering each product graded by him. A grader's name may be signed on a grading certificate by a person other than the grader if such person has been designated as the authorized agent of such grader by the national supervisor: *Provided,* That the certificate is prepared from an official memorandum of grading signed by the grader: *And provided further,* That a notarized power of attorney authorizing such signature has been issued to such person by the grader and is on file in the office of grading. In such case, the authorized agent shall sign both his own and the grader's name e.g., "John Doe by Richard Roe."

(c) The original and a copy of each grading certificate, issued pursuant to §§ 70.90 through 70.92, and not to exceed two additional copies thereof if requested by the applicant prior to issuance shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. Other copies shall be filed and retained in accordance with the disposition schedule for grading program records.

[41 FR 23681, June 11, 1976. Redesignated at 42 FR 30514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46071, Oct. 15, 1982 and 47 FR 54421, Dec. 3, 1982]

§ 70.92 Advance information.

Upon the request of an applicant, all or part of the contents of any grading certificate issued to such applicant may be telephoned or telegraphed to him, or to any person designated by him, at his expense.

APPEAL OF A GRADING OR DECISION

§ 70.100 Who may request an appeal grading or review of a grader's decision.

An appeal grading may be requested by any interested party who is dissatisfied with the determination by a grader of the class, quality, quantity, or condition of any product as evidenced by the USDA grademark and accompanying label, or as stated on a grading certificate, and a review may be requested by the operator of an official plant with respect to a grader's decision on any other matter relating to grading in an official plant.

§ 70.101 Where to file an appeal.

(a) *Appeal from resident grader's grading or decision in an official plant.* Any interested party who is not satisfied with the determination of the class, quality, quantity, or condition of product which was graded by a grader in an official plant and has not left such plant, and the operator of any official plant who is not satisfied with a decision made by a grader or any other matter relating to grading in such plant, may request an appeal grading or review of the decision by filing such request with the grader's immediate supervisor.

(b) *All other appeal requests.* Any interested party who is not satisfied with the determination of the class, quality, quantity, or condition of product which has left the official plant where it was graded, or which was graded other than in an official plant, may request an appeal grading by filing such request with the regional director in the area where the product is located or with the Chief of the Grading Branch.

§ 70.102 How to file an appeal.

Any request for an appeal grading or review of a grader's decision may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the reasons for requesting the appeal service, and a description of the product or the decision which is questioned. If such appeal request is based on the results stated on an official certificate, the original and all available copies of the certificate shall be returned to the appeal grader assigned to make the appeal grading.

§ 70.103 When an application for an appeal grading may be refused.

When it appears to the official with whom an appeal request is filed that the reasons given in the request for an appeal grading are frivolous or not substantial, or that the quality or condition of the product has undergone a material change since the original grading, or that the original lot has changed in some manner, or the Act or the regulations in this part have not been complied with, the applicant's request for the appeal grading may be refused. In such case, the applicant shall be promptly notified of the reason(s) for such refusal.

§ 70.104 Who shall perform the appeal.

(a) An appeal grading or review of a decision requested under § 70.101(a) shall be made by the grader's immediate supervisor or by a licensed grader assigned by the immediate supervisor other than the grader whose grading or decision is being appealed.

(b) Appeal gradings requested under § 70.101(b) shall be performed by a grader other than the grader who originally graded the product.

(c) Whenever practical, an appeal grading shall be conducted jointly by two graders. The assignment of the grader(s) who will make the appeal grading requested under § 70.101(b) shall be made by the regional director or the Chief of the Grading Branch.

§ 70.105 Procedures for appeal gradings.

(a) When all of the originally graded and identified samples are available, the appeal sample shall consist of such samples plus an equal number of samples.

(b) When the original samples are not available, the appeal sample size for the lot shall consist of double the samples required in § 70.80.

(c) Poultry or rabbits in an unfrozen state must be adequately protected and kept in good condition until the appeal grading is performed.

(d) Overwraps on frozen poultry or rabbits shall be removed from all birds or rabbits in the sample prior to appeal grading for quality or to determine the class.

(e) When the appeal is based on grading or class determination factors, each frozen carcass shall be defrosted prior to conducting the appeal grading. Whether defrosting poultry or rabbit carcasses for other types of appeals will be required by the appeal grader, will depend upon the reason for the appeal.

§ 70.106 Appeal grading certificates.

Immediately after an appeal grading is completed, an appeal certificate shall be issued to show that the original grading was sustained or was not sustained. Such certificate shall supersede any previously issued certificate for the product involved and shall clearly identify the number and date of the superseded certificate. The issuance of the appeal certificate may be withheld until any previously issued certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Government. When the appeal grader assigns a different grade to the lot, the existing grademark shall be changed or obliterated as necessary. When the appeal grader assigns a different class or quantity designation to the lot, the labeling shall be corrected.

SANITARY REQUIREMENTS, FACILITIES, AND OPERATING PROCEDURES

§ 70.110 Minimum standards for sanitation, facilities, and operating procedures in official plants.

(a) The minimum requirements for sanitation, facilities, and operating procedures in official plants shall be the applicable provisions stated in 9 CFR Part 381 for poultry, and for rabbits the requirements shall be the applicable provisions stated in 9 CFR Part 382.

(b) With respect to grading services, there shall be a minimum of 50-foot candles of light intensity at grading stations; and acceptable means, when necessary, of maintaining control and identity of products segregated for quality, class, condition, weight, lot, or any other factor which may be used to distinguish one type of product from another.

Subpart B—United States Classes, Standards, and Grades for Poultry

UNITED STATES CLASSES OF READY-TO-COOK POULTRY

§ 70.200 General.

The provisions of §§ 70.200 through 70.206 apply to individual carcasses of ready-to-cook poultry in determining the kind of poultry and its class. The kinds of poultry are as follows: Chickens, turkeys, ducks, geese, guineas, and pigeons.

§ 70.201 Chickens.

The following are the various classes of chickens:

(a) *Rock Cornish game hen or Cornish game hen.* A Rock Cornish game hen or Cornish game hen is a young immature chicken (usually 5 to 6 weeks of age), weighing not more than 2 pounds ready-to-cook weight, which was prepared from a Cornish chicken or the progeny of a Cornish chicken crossed with another breed of chicken.

(b) *Rock Cornish fryer, roaster, or hen.* A Rock Cornish fryer, roaster, or hen is the progeny of a cross between a purebred Cornish and a purebred Rock chicken, without regard to the weight of the carcass involved; however, the term "fryer," "roaster," or "hen," shall apply only if the carcasses are from birds with ages and characteristics that qualify them for such designation under paragraphs (c) and (d) of this section.

(c) *Broiler or fryer.* A broiler or fryer is a young chicken (usually under 13 weeks of age), of either sex, that is tender-meated with soft, pliable, smooth-textured skin and flexible breastbone cartilage.

(d) *Roaster or roasting chicken.* A bird of this class is a young chicken (usually 3 to 5 months of age), of either sex, that is tender-meated with soft, pliable, smooth-textured skin and breastbone cartilage that may be somewhat less flexible than that of a broiler or fryer.

(e) *Capon.* A capon is a surgically unsexed male chicken (usually under 8 months of age) that is tender-meated with soft, pliable, smooth-textured skin.

(f) *Hen, fowl, or baking or stewing chicken.* A bird of this class is a mature female chicken (usually more than 10 months of age) with meat less tender than that of a roaster or roasting chicken and nonflexible breastbone tip.

(g) *Cock or rooster.* A cock or rooster is a mature male chicken with coarse skin, toughened and darkened meat, and hardened breastbone tip.

§ 70.202 Turkeys.

The following are the various classes of turkeys:

(a) *Fryer-roaster turkey.* A fryer-roaster turkey is a young immature turkey (usually under 16 weeks of age), of either sex, that is tender-meated with soft, pliable, smooth-textured skin, and flexible breastbone cartilage.

(b) *Young turkey.* A young turkey is a turkey (usually under 8 months of age) that is tender-meated with soft, pliable smooth-textured skin, and breastbone cartilage that is somewhat less flexible than in a fryer-roaster turkey. Sex designation is optional.

(c) *Yearling turkey.* A yearling turkey is a fully matured turkey (usually under 15 months of age) that is reasonably tender-meated and with reasonably smooth-textured skin. Sex designation is optional.

(d) *Mature turkey or old turkey (hen or tom).* A mature or old turkey is an old turkey of either sex (usually in excess of 15 months of age) with coarse skin and toughened flesh.

(e) For labeling purposes, the designation of sex within the class name is optional, and the two classes of young turkeys may be grouped and designated as "young turkeys."

§ 70.203 Ducks.

The following are the various classes of ducks:

(a) *Broiler duckling or fryer duckling.* A broiler duckling or a fryer duckling is a young duck (usually under 8 weeks of age), of either sex, that is tender-meated and has a soft bill and a soft windpipe.

(b) *Roaster duckling.* A roaster duckling is a young duck (usually under 16 weeks of age), of either sex, that is tender-meated and has a bill that is not completely hardened and a windpipe that is easily dented.

(c) *Mature duck or old duck.* A mature duck or an old duck is a duck (usually over 6 months of age), of either sex, with toughened flesh, hardened bill, and hardened windpipe.

§ 70.204 Geese.

The following are the various classes of geese:

(a) *Young goose.* A young goose may be of either sex, is tender-meated, and has a windpipe that is easily dented.

(b) *Mature goose or old goose.* A mature goose or old goose may be of either sex and has toughened flesh and hardened windpipe.

§ 70.205 Guineas.

The following are the various classes of guineas:

(a) *Young guinea.* A young guinea may be of either sex, is tender-meated, and has a flexible breastbone cartilage.

(b) *Mature guinea or old guinea.* A mature guinea or an old guinea may be of either sex, has toughened flesh, and a hardened breastbone.

§ 70.206 Pigeons.

The following are the various classes of pigeons:

(a) *Squab.* A squab is a young, immature pigeon of either sex, and is extra tender-meated.

(b) *Pigeon.* A pigeon is a mature pigeon of either sex, with coarse skin and toughened flesh.

United States Standards for Quality of Ready-to-Cook Poultry and Specified Poultry Food Products

§ 70.210 General.

(a) The United States standards for quality contained in §§ 70.210 through 70.231 are applicable as indicated in the headings with respect to said sections, to individual carcasses of ready-to-cook poultry, to parts of ready-to-cook poultry as described in paragraph (e) of this section, and to individual units of the specified poultry food products.

(b) Carcasses, parts, or poultry food products found to be unsound, unwholesome, or otherwise unfit for human food in whole or in part, shall not be given any of the quality designations specified in §§ 70.210 through 70.231.

(c) In interpreting the respective requirements specified in §§ 70.210 through 70.222 for A quality, B quality, and C quality, the intensity, aggregate area involved, and locations of (1) discolorations (whether or not caused by dressing operations); (2) bruises; (3) exposed flesh (resulting from cuts, tears, and missing skin); (4) pinfeathers; and (5) freezing defects, as such defects individually, or in combination, detract from the general appearance, shall be considered in determining the particular quality of an individual carcass or part.

(d) A ready-to-cook carcass which has a defect may be graded after the defective portion has been removed. The fact that a portion has been removed, will not be considered in determining the quality of the balance of the carcass if the remaining portion of the carcass is to be disjointed and packed as parts or used in the fabrication of poultry food products. Poultry parts which have been properly cut as described in paragraph (e) of this section may be graded after they have been cut from the carcass, if the class is known and the parts are not misshapen or have nearly the same appearance as prior to cutting from the carcass.

(e) The standards of quality are applicable to poultry parts cut in the manner described in paragraphs (e)(1) through (16) of this section. Similar parts cut in a manner other than described in paragraphs (e)(1) through (16) of this section may be grade identified only when approved by the Administrator upon his determination that the labeling for such parts accurately describes the product. Requests for such approval shall be made to the national supervisor.

(1) "Breasts" shall be separated from the back at the shoulder joint and by a cut running backward and downward from that point along the junction of the vertebral and sternal ribs. The ribs may be removed from the breasts, and the breasts may be cut along the breastbone to make two approximately equal halves; or the wishbone portion, as described in paragraph (e)(3) of this section, may be removed before cutting the remainder along the breastbone to make three parts. Pieces cut in this manner may be substituted for lighter or heavier pieces for exact weight-making purposes, and the package may contain two or more of such parts without affecting the appropriateness of the labeling as e.g., "chicken breasts." Neck skin shall not be included with the breasts, except that "turkey breasts" may include neck skin up to the whisker.

(2) "Breasts with ribs" shall be separated from the back at the junction of the vertebral ribs and back. Breasts with ribs may be cut along the breastbone to make two approximately equal halves; or the wishbone portion, as described in paragraph (e)(3) of this section, may be removed before cutting the remainder along the breastbone to make three parts. Pieces cut in this manner may be substituted for lighter or heavier pieces for exact weightmaking purposes, and the package may contain two or more of such parts without affecting the appropriateness of the labeling as "breasts with ribs." Neck skin shall not be included.

(3) "Wishbones" (Pulley Bones), with covering muscle and skin tissue, shall be severed from the breast approximately halfway between the end of the wishbone (hypocledium) and from point of the breastbone (cranial process of the sternal crest) to a point where the wishbone joins the shoulder. Neck skin shall not be included with the wishbone.

(4) "Drumsticks" shall be separated from the thigh by a cut through the knee joint (femorotibial and patellar joint) and from the hock joint (tarsal joint).

(5) "Thighs" shall be disjointed at the hip joint and may include the pelvic meat, but shall not include the pelvic bones. Back skin shall not be included.

(6) "Legs" shall include the whole leg, i.e., the thigh and the drumstick, whether jointed or disjointed. Back skin shall not be included.

(7) "Wings" shall include the entire wing with all muscle and skin tissue intact, except that the wingtip may be removed.

(8) "Backs" that are officially identified shall meet the applicable provisions of §§ 70.220, 70.221, and 70.222.

(9) "Halves" are prepared by making a full-length back and breast split of an eviscerated poultry carcass so as to produce approximately equal right and left sides.

(10) "Quarters" consist of the entire eviscerated poultry carcass, which has been cut into four equal parts, but excluding the neck.

(11) "Breast quarter" consists of half a breast with the wing and a portion of the back attached.

(12) "Breast quarter without wing" consists of a front quarter of a poultry carcass, from which the wing has been removed.

(13) "Leg quarter" consists of a poultry thigh and drumstick, with a portion of the back attached.

(14) "Thigh with back portion" consists of a poultry thigh with back portion attached.

(15) "Legs with pelvic bone" consists of a poultry leg with adhering meat and skin and pelvic bone.

(16) "Wing drummette" consists of the humerus (first portion) of a poultry wing with adhering skin and meat attached.

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STANDARDS FOR QUALITY OF READY-TO-COOK POULTRY

§ 70.220 A Quality.

(a) *Conformation.* The carcass or part is free of deformities that detract from its appearance or that affect the normal distribution of flesh. Slight deformities, such as slightly curved or dented breastbones and slightly curved backs, may be present.

(b) *Fleshing.* The carcass has a well developed covering of flesh considering the kind, class, and part.

(1) The breast is moderately long and deep, and has sufficient flesh to give it a rounded appearance with the flesh carrying well up to the crest of the breastbone along its entire length.

(2) The leg is well fleshed and moderately thick and wide at the knee and hip joint area, and has a well-rounded, plump appearance with the flesh carrying well down toward the hock and upward to the hip joint area.

(3) The drumstick is well fleshed and moderately thick and wide at the knee joint, and has a well-rounded, plump appearance with the flesh carrying well down toward the hock.

(4) The thigh is well to moderately fleshed.

(5) The wing is well to moderately fleshed.

(c) *Fat covering.* The carcass or part, considering the kind, class, and part, has a well-developed layer of fat in the skin. The fat is well distributed so that there is a noticeable amount of fat in the skin in the areas between the heavy feather tracts.

(d) *Defeathering.* The carcass or part has a clean appearance, especially on the breast. The carcass or part is free of pinfeathers, diminutive feathers, and hair which are visible to the grader.

(e) *Exposed flesh.* Parts are free of exposed flesh, resulting from cuts, tears, and missing skin (other than slight trimming on the edge). The carcass is free of these defects on the breast and legs. Elsewhere, the carcass may have exposed flesh due to slight cuts, tears, and areas of missing skin, provided that the aggregate of the areas of flesh exposed does not exceed the area of a circle of the diameter as specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Breast and legs	Elsewhere
None	1 lb., 8 oz	None	¾ in.
Over 1 lb., 8 oz.	6 lb	do	1½ in.
Over 6 lb	16 lb	do	2 in.
Over 16 lb	None	do	3 in.

(f) *Disjointed and broken bones and missing parts.* Parts are free of broken bones. The carcass is free of broken bones and has not more than one disjointed bone. The wing tips may be removed at the joint, and in the case of ducks and geese, the parts of the wing beyond the second joint may be removed, if removed at the joint and both wings are so treated. The tail may be removed at the base. Cartilage separated from the breastbone is not considered as a disjointed or broken bone.

(g) *Discolorations of the skin and flesh.* The carcass or part is practically free of such defects. Discolorations due to bruising shall be free of clots (discernible clumps of red or dark cells). Evidence of incomplete bleeding, such as more than an occasional slightly reddened feather follicle, is not permitted. Flesh bruises and discolorations of the skin, such as "blue back," are not permitted on the breast or legs of the carcass, or on these individual parts, and only lightly shaded discolorations are permitted elsewhere. The total areas affected by flesh bruises, skin bruises, and discolorations, such as "blue back," singly, or in any combination, shall not exceed one-half of the total aggregate area of permitted discoloration. The aggregate area of all discolorations for a part shall not exceed that of a circle one-fourth inch in diameter for poultry weighing up to 6 pounds and one-half inch in diameter for poultry weighing over 6 pounds. The aggregate area of all discolorations for a carcass shall not exceed the area of a circle of the diameter as specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Breast and legs	Elsewhere
None	1 lb, 8 oz	½ in	1 in.
Over 1 lb, 8 oz.	6 lb	1 in	2 in.
Over 6 lb	16 lb	1½ in	2½ in.
Over 16 lb	None	2 in	3 in.

(h) *Freezing defects.* With respect to consumer packaged poultry, parts, or specified poultry food products, the carcass, part, or specified poultry food product is practically free from defects which result from handling or occur during freezing or storage. The following defects are permitted if they, alone or in combination, detract only very slightly from the appearance of the carcass, part, or specified poultry food product:

(1) Slight darkening over the back and drumsticks, provided the frozen bird or part has a generally bright appearance;

(2) Occasional pockmarks due to drying of the inner layer of skin (derma) (however, none may exceed the area of a circle one-eighth inch in diameter for poultry weighing 6 pounds or less and one-fourth inch in diameter for poultry weighing over 6 pounds);

(3) Occasional small areas showing a thin layer of clear or pinkish colored ice.

(i) *Backs.* A quality backs shall meet all applicable provisions of this section pertaining to parts, and shall include the meat contained on the ilium (oyster), pelvic meat and skin and vertebral ribs and scapula with meat and skin.

§ 70.221 B Quality.

(a) *Conformation.* The carcass or part may have moderate deformities, such as a dented, curved, or crooked breast, crooked back or misshapen legs or wings, which do not materially affect the distribution of flesh or the appearance of the carcass or part.

(b) *Fleshing.* The carcass has a moderate covering of flesh considering the kind, class, and part.

(1) The breast has a substantial covering of flesh with the flesh carrying up to the crest of the breastbone sufficiently to prevent a thin appearance.

(2) The leg is fairly thick and wide at the knee and hip joint area, and has sufficient flesh to prevent a thin appearance.

(3) The drumstick has a sufficient amount of flesh to prevent a thin appearance with the flesh carrying fairly well down toward the hock.

(4) The thigh has a sufficient amount of flesh to prevent a thin appearance.

(5) The wing has a sufficient amount of flesh to prevent a thin appearance.

(c) *Fat covering.* The carcass or part has sufficient fat in the skin to prevent a distinct appearance of the flesh through the skin, especially on the breast and legs.

(d) *Defeathering.* The carcass or part may have a few nonprotruding pinfeathers or vestigial feathers which are scattered sufficiently so as not to appear numerous. Not more than an occasional protruding pinfeather or diminutive feather shall be in evidence under a careful examination.

(e) *Exposed flesh.* Parts may have exposed flesh resulting from cuts, tears, and missing skin, provided that not more than a moderate amount of the flesh normally covered by skin is exposed. The carcass may have exposed flesh resulting from cuts, tears, and missing skin, provided that the aggregate of the areas of flesh exposed does not exceed the area of a circle of the diameter as specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Breast and legs	Elsewhere
None	1 lb., 8 oz	¾ in.	1½in.
Over 1 lb., 8 oz.	6 lb	1½ in	3 in.
Over 6 lb	16 lb	2 in	4 in.
Over 16 lb	None	3 in	5 in.

Notwithstanding the foregoing, a carcass meeting the requirements of A quality for fleshing may be trimmed to remove skin and flesh defects, provided that no more than one-third of the flesh is exposed on any part, and the meat yield of any part is not appreciably affected.

(f) *Disjointed and broken bones and missing parts.* Parts may be disjointed, but are free of broken bones. The carcass may have two disjointed bones, or one disjointed bone and one nonprotruding broken bone. Parts of the wing beyond the second joint may be removed at a joint. The tail may be removed at the base. The back may be trimmed in an area not wider than the base of the tail and extending from the tail to the area halfway between the base of the tail and the hip joints.

(g) *Discolorations of the skin and flesh.* The carcass or part is free of serious defects. Discoloration due to bruising shall be free of clots (discernible clumps of red or dark cells). Evidence of incomplete bleeding shall be no more than very slight. Moderate areas of discoloration due to bruises in the skin or flesh and moderately shaded discoloration of the skin, such as "blue back" are permitted, but the total areas affected by such discolorations, singly or in any combination, may not exceed one-half of the total aggregate area of permitted discoloration. The aggregate area of all discolorations for a part shall not exceed the area of a circle having a diameter of one-half inch for poultry weighing up to 1 pound, 8 ounces; 1 inch for poultry weighing over 1 pound, 8 ounces, but not more than 6 pounds; and 1½ inches for poultry weighing over 6 pounds. The aggregate area of all discolorations for a carcass shall not exceed the area of a circle of the diameter as specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Breast and legs	Elsewhere
None	1 lb., 8 oz	1 in	2 in.
Over 1 lb., 8 oz.	6 lb	2 in	3 in.
Over 6 lb	16 lb	2½ in	4 in.
Over 16 lb	None	3 in	5 in.

(h) *Freezing defects.* With respect to consumer packaged poultry, parts, or specified poultry food products, the carcass, part or specified poultry food product may have moderate defects which result from handling or occur during freezing or storage. The skin and flesh shall have a sound appearance, but may lack brightness. The carcass or part may have a few pockmarks due to drying of the inner layer of skin (derma). However, no single area of overlapping pockmarks may exceed that of a circle one-half inch in diameter. Moderate areas showing layers of clear pinkish or reddish colored ice are permitted.

(i) *Backs.* B quality backs shall meet all applicable provisions of this section pertaining to parts, and shall include either the meat contained on the ilium (oyster) and meat and skin from the pelvic bones or the vertebral ribs and scapula with meat and skin.

§ 70.222 C Quality.

(a) A part that does not meet the requirements for A or B quality may be of C quality if the flesh is substantially intact.

(b) A carcass that does not meet the requirements for A or B quality may be C quality. Both wings may be removed or neatly trimmed. Trimming of the breast and legs is permitted, but not to the extent that the normal meat yield is materially affected. The back may be trimmed in an area not wider than the base of the tail and extending from the tail to the area between the hip joints.

(c) C quality backs shall include the meat and skin from the pelvic bones, except that the meat contained in the ilium (oyster) may be removed. The vertebral ribs and scapula with meat and skin may also be removed, but the remaining portion must have the skin substantially intact.

[41 FR 23681, June 11, 1976; 41 FR 26565, June 28, 1976. Redesignated at 42 FR 32514, June 27, 1977 and at 46 FR 63203, Dec. 31, 1981]

STANDARDS FOR QUALITY OF SPECIFIED POULTRY FOOD PRODUCTS

§ 70.230 Poultry roast—A Quality.

The standard of quality contained in this section is applicable to raw poultry products labeled in accordance with 9 CFR Part 381 as ready-to-cook "Rolls," "Roasts," or with words of similar import.

(a) The deboned poultry meat used in the preparation of the product shall be from young poultry of A quality with respect to fleshing and fat covering.

(b) All tendons, cartilage, large blood vessels, blood clots, and discolorations shall be trimmed from the meat.

(c) All pinfeathers, bruises, hair, discolorations, and blemishes, shall be removed from the skin, and where necessary, excess fat shall be removed from the skin covering the crop area or other areas.

(d) Seventy-five percent or more of the outer surface of the product shall be covered with skin, whether attached to the meat or used as a wrap. The skin shall not appreciably overlap at any point. The combined weight of the skin and fat used to cover the outer surface and that used as a binder shall not exceed 15 percent of the total net weight of the product.

(e) The product shall be fabricated in such a manner that each slice remains substantially intact (does not separate into more than three parts) when sliced warm after cooking. This may be accomplished by use of large pieces of poultry or by use of approved binders.

(f) Seasoning or flavor enhancers, if used, shall be uniformly distributed.

(g) Product shall be fabricated or tied in such a manner that it will retain its shape after defrosting and cooking.

(h) Packaging shall be neat and attractive.

(i) Product shall be practically free of weepage after packaging and/or freezing, and if frozen, shall have a bright, desirable color.

(j) Product packaged in an oven-ready container shall meet all the requirements of paragraphs (a) through (i) of this section, except that with respect to skin covering, the exposed surface of the roast need not be covered with skin. If skin is used to cover the exposed surface, it may be whole or emulsified. Additionally, for roasts packaged in oven-ready containers, comminuted (mechanically deboned) meat may be substituted in part for skin, but may not exceed 8 percent of the total weight of the product.

§ 70.231 Boneless poultry breast and thigh—A Quality.

The standards of quality contained in this section are applicable to raw poultry products labeled as ready-to-cook boneless poultry breasts or thighs, or as ready-to-cook boneless poultry breast fillets or thigh fillets, or with words of similar import.

(a) The breast or thigh shall be cut as specified in § 70.210(e) (1), (2), or (5), respectively.

(b) Prior to deboning, the breast or thigh shall meet the A quality requirements for ready-to-cook poultry parts as specified in § 70.220 (a), (b), (c), (d), (e), and (g).

(c) The bone or bones shall be removed in a neat manner without undue mutilation of adjacent muscle.

UNITED STATES GRADES FOR READY-TO-COOK POULTRY AND SPECIFIED POULTRY FOOD PRODUCTS

§ 70.240 General.

(a) All terms in the United States standards for quality set forth in §§ 70.210 through 70.231 shall, when used in §§ 70.240 through 70.271, have the same meaning as when used in said standards.

(b) The U.S. Grades for Ready-To-Cook Poultry and Specified Poultry

Food Products are applicable to poultry of the kinds and classes set forth in §§ 70.200 through 70.206 when the carcasses or parts, including those used in the fabrication of poultry food products, have been graded in accordance with § 70.20 on an individual basis or on the basis of each carcass in a representative sample, whichever is applicable in accordance with paragraph (c) or (d) of this section, and when fabrication of the poultry food products has been done under the supervision of a grader.

(c) United States Consumer Grades for ready-to-cook poultry and poultry food products may be assigned only when each carcass or part, including those used in the fabrication of poultry food products, has been (1) graded on an individual basis, and (2) graded and identified in an unfrozen state.

(d) U.S. Procurement Grades may be assigned to ready-to-cook poultry when graded as a lot on the basis of an examination of each carcass or part in the lot or each carcass in a representative sample thereof. Such ready-to-cook poultry carcasses or parts may be graded in a frozen or unfrozen state.

UNITED STATES CONSUMER GRADES FOR READY-TO-COOK POULTRY AND SPECIFIED POULTRY FOOD PRODUCTS

§ 70.250 U.S. Grade A.

A lot of ready-to-cook poultry, parts, or poultry food products consisting of one or more ready-to-cook carcasses or parts, or individual units of poultry food products of the same kind and class, each of which conforms to the requirements for A quality as specified in this part, may be designated as U.S. Grade A.

§ 70.251 U.S. Grade B.

A lot of ready-to-cook poultry or parts consisting of one or more ready-to-cook carcasses or parts of the same kind and class, each of which conforms to the requirements for B quality or better may be designated as U.S. Grade B.

§ 70.252 U.S. Grade C.

A lot of ready-to-cook poultry or parts consisting of one or more ready-to-cook carcasses or parts of the same kind and class, each of which conforms to the requirements for C quality or better, may be designated as U.S. Grade C.

UNITED STATES READY-TO-COOK GRADE FOR FURTHER PROCESSING

§ 70.260 U.S. Grade A—for further processing.

Any lot of ready-to-cook poultry composed of one or more turkey carcasses may be designated as "U.S. Grade A—For Further Processing" when each carcass in the lot meets the requirements for U.S. A quality as described in this subpart, with the following exceptions: (a) Exposed flesh and discolorations of the skin and flesh may be as described for U.S. B quality in this subpart; (b) any number of disjointed bones are permitted; (c) part or all of one or both wings may be missing when severed at a joint, and (d) the back may be trimmed in an area not wider than the base of the tail and extending from the tail to the area between the hip joints.

UNITED STATES PROCUREMENT GRADES FOR READY-TO-COOK POULTRY

§ 70.270 U.S. Procurement Grade I.

Any lot of ready-to-cook poultry composed of one or more carcasses of the same kind and class may be designated and identified as U.S. Procurement Grade I when: (a) 90 percent or more of the carcasses in such lot meet the requirements of A quality, with the following exceptions: (1) Fat covering and conformation may be as described in this subpart for B quality; (2) trimming of skin and flesh to remove defects is permitted to the extent that not more than one-third of the flesh is exposed on any part, and the meat yield of any part is not appreciably affected; (3) discoloration of the skin and flesh may be as described in this subpart for B quality; (4) one or both drumsticks may be removed if the part is severed at the joint; (5) the back may be trimmed in an area not wider than the base of the tail and extending to the area between the hip joints; (6) the wings or parts of wings may be removed if severed at a joint; and

(b) The balance of the carcasses meet the same requirements, except they may have only a moderate covering of flesh.

§ 70.271 U.S. Procurement Grade II.

Any lot of ready-to-cook poultry of the same kind and class which fails to meet the requirements of U.S. Procurement Grade I may be designated and identified as U.S. Procurement Grade II, provided that (a) trimming of flesh from any part does not exceed 10 percent of the meat; and (b) portions of a carcass weighing not less than one-half of the whole carcass may be included, if the portion approximates in percentage the meat to bone yield of the whole carcass.

Subpart C—United States Classes, Standards and Grades for Rabbits

UNITED STATES CLASSES OF READY-TO-COOK RABBITS

§ 70.300 General.

For the purpose of §§ 70.300 through 70.302, the classes of ready-to-cook rabbits are fryer or young rabbit and roaster or mature rabbit.

§ 70.301 Fryer or young rabbit.

A fryer or young rabbit is a young rabbit carcass weighing not less than 1½ pounds and rarely more than 3½ pounds processed from a rabbit usually less than 12 weeks of age. The flesh of a fryer or young rabbit is tender and fine grained, and of a bright pearly pink color.

§ 70.302 Roaster or mature rabbit.

A roaster or mature rabbit is a mature or old rabbit carcass of any weight, but usually over 4 pounds processed from a rabbit usually 8 months of age or older. The flesh of a roaster or mature rabbit is more firm and coarse grained, and the muscle fiber is slightly darker in color and less tender, and the fat may be more creamy in color than that of a fryer or young rabbit.

UNITED STATES STANDARDS FOR QUALITY OF READY-TO-COOK RABBITS

§ 70.310 General.

(a) The United States standards for quality contained in §§ 70.320 through 70.322 are applicable to individual carcasses of ready-to-cook rabbits and parts as described in paragraph (e) of this section.

(b) Carcasses or parts found to be unsound, unwholesome, or unfit for food shall not be included in any of the quality designations specified in §§ 70.320 through 70.322.

(c) In interpreting the respective requirements specified in §§ 70.320 through 70.322 for A quality, B quality, and C quality: (1) The intensity of coagulation due to incomplete bleeding, (2) freedom from foreign material, (3) broken bones, flesh bruises, defects, and deformities, and (4) freezing defects, as such defects individually or in combination, detract from the general appearance, shall be considered in determining the particular quality of an individual carcass or part.

(d) A ready-to-cook carcass which has a defect may be graded after the defective portion has been removed. The fact that a portion has been removed will not be considered in determining the quality of the balance of the carcass, if the remaining portion of the carcass is to be disjointed and packed as parts. Rabbit parts which have been properly cut as described in paragraph (e) of this section may be graded after they have been cut from the carcass, if the class is known and the parts are not misshapen, or have nearly the same appearance as prior to cutting from the carcass.

(e) The standards of quality are applicable to rabbit parts cut in the manner described in paragraphs (e) (1) through (5) of this section. Similar parts cut in a manner other than as described in paragraphs (e) (1) through (5) of this section may be grade identified only when approved by the Administrator upon his determination that the labeling for such parts accurately describes the product. Requests for such approval shall be made to the National Supervisor.

(1) "Forelegs" shall be removed by cutting straight across the backbone at the eighth or ninth thoracic vertebra. The legs are divided by a lengthwise cut along the backbone to produce two approximately equal halves.

(2) "Ribs" shall be removed by cutting straight across the backbone between the third and fourth lumbar vertebrae. The rib section is further divided by a lengthwise cut along the backbone.

(3) "Loin" is separated from the rump by cutting straight across the backbone between the sixth and seventh lumbar vertebrae. There is no further division of this part.

(4) "Rump" is separated from the hind legs by cutting on a straight line from the base of the tail to a point approximately one-half inch above the stifle joint. There is no further division of the rump.

(5) "Hind legs" need no further division after separation from the rump.

STANDARDS FOR QUALITY

§ 70.320 A quality.

(a) *The carcass or part:* (1) Is free from evidence of incomplete bleeding such as more than an occasional slight coagulation in a vein, (2) is free from any evidence of reddening of the flesh due to fluid in the connective tissues, (3) is free from all foreign material (including, but not being limited to, hair, dirt, and bone particles) and from crushed bones caused by removing the head or the feet, and (4) is free from broken bones, flesh bruises, defects, and deformities. Ends of leg bones may be broken due to removing the feet.

(b) *The carcass:* (1) Is short, thick, well-rounded, and full-fleshed, (2) has a broad back, broad hips, and broad, deep-fleshed shoulders, and firm muscle texture, and (3) has a fair quantity of interior fat in the crotch and over the inner walls of the carcass, and a moderate amount of interior fat around the kidneys.

(c) *The part:* (1) Is full-fleshed and (2) has firm muscle texture.

(d) *Freezing defects.* With respect to consumer packaged rabbit carcasses or parts, they are practically free from defects which result from handling or occur during freezing or storage. The following defects are permitted if they, alone or in combination, detract only very slightly from the appearance of the carcass or part:

(1) Slight darkening provided the frozen carcass or part has a generally bright appearance, (2) occasional pockmarks due to drying of the outer layer of flesh and (3) occasional small areas showing a thin layer of clear or pinkish colored ice.

§ 70.321 B quality.

(a) *The carcass or part:* (1) Is free of evidence of incomplete bleeding such as more than an occasional slight coagulation in a vein, (2) is free from any evidence of reddening of the flesh due to fluid in the connective tissues, (3) is free from all foreign material (including, but not being limited to, hair, dirt, and bone particles) and from crushed bones caused by removing the head or the feet, and (4) is free from broken bones and practically free from bruises, defects, and deformities. Ends of leg bones may be broken due to removing the feet.

(b) *The carcass:* (1) Is short, thick, fairly well-rounded and fairly well-fleshed, (2) has a fairly broad back, fairly broad hips, and fairly broad and deep-fleshed shoulders, and fairly firm muscle texture, and (3) has at least a small amount of interior fat in the crotch and over the inner walls of the carcass with a small amount of interior fat around the kidneys.

(c) *The part:* (1) Is fairly well-fleshed, and (2) has fairly firm muscle texture.

(d) *Freezing defects.* With respect to consumer packaged rabbit carcasses or parts, they may have moderate defects which result from handling or occur during freezing or storage. The flesh shall have a sound appearance but may lack brightness. The carcass or part may have a few pockmarks due to drying of the outer layer of flesh. Moderate areas showing layers of clear, pinkish, or reddish colored ice are permitted.

§ 70.322 C quality.

(a) The carcass or part that does not meet the requirements for A or B quality may be of C quality, and such carcass or part: (1) May show very slight evidence of reddening of the flesh due to blood in the connective tissues, (2) is free from all foreign material (including, but not being limited to, hair, dirt, and bone particles) and from crushed bones caused by removing the head or feet, and (3) may have moderate bruises of the flesh, moderate defects, and moderate deformities; may have not more than one broken bone in addition to broken ends of leg bones due to removal of the feet; and may have a small portion of the carcass or part removed because of serious bruises. Discoloration due to bruising in the flesh shall be free of clots (discernible clumps of dark or red cells).

(b) The carcass: (1) May be long, rangy, and fairly well-fleshed, (2) may have thin, narrow back and hips, and soft flabby muscle texture, and (3) may show very little evidence of exterior fat.

(c) The part: (1) Is fairly well-fleshed, and (2) has soft, flabby muscle texture.

UNITED STATES CONSUMER GRADES FOR READY-TO-COOK RABBITS

§ 70.330 U.S. Grade A.

A lot of ready-to-cook rabbit carcasses or parts, consisting of one or more ready-to-cook carcasses or parts of the same kind and class, each of which conforms to the requirements for A quality as specified in this part, may be designated as U.S. Grade A.

§ 70.331 U.S. Grade B.

A lot of ready-to-cook rabbit carcasses or parts, consisting of one or more ready-to-cook carcasses or parts of the same kind and class, each of which conforms to the requirements for B quality as specified in this part, may be designated as U.S. Grade B.

§ 70.332 U.S. Grade C.

A lot of ready-to-cook rabbit carcasses or parts, consisting of one or more ready-to-cook carcasses or parts of the same kind and class, each of which conforms to the requirements for C quality as specified in this part, may be designated as U.S. Grade C.

[41 FR 2368, June 11, 1976. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 3, 1981, and amended at 47 FR 46071, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

PART 75—REGULATIONS FOR INSPECTION AND CERTIFICATION OF QUALITY OF AGRICULTURAL AND VEGETABLE SEEDS

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AUTHORITY: Secs. 203, 205, 60 Stat. 1087 and 1090, as amended (7 U.S.C. 1622 and 1624), unless otherwise noted.

SOURCE: 49 FR 18724, May 2, 1984, unless otherwise noted.

DEFINITIONS

§ 75.1 Meaning of words.

Words used in the regulations in this part in the singular form shall be deemed to import the plural and vice versa, as the case may demand.

§ 75.2 Terms defined.

For the purpose of these regulations unless the context otherwise requires, the following terms shall be construed, respectively, as follows:

(a) "Act" means the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*).

(b) "Regulations" means the regulations in this part.

(c) "Department" means the United States Department of Agriculture (USDA).

(d) "Secretary" means the Secretary of the United States Department of Agriculture, or any officer or employee of the Department to whom authority has been delegated to act in the Secretary's stead.

(e) "Administrator" means the Administrator of the Agricultural Marketing Service (AMS) of the Department, or any other officer or employee of AMS to whom authority has been delegated to act in the Administrator's stead.

(f) "Division" means the Warehouse and Seed Division (WSD), AMS.

(g) "Director" means the Director of the Division or any other officer or employee of the Division to whom authority has been delegated to act in the Director's stead.

(h) "Person" means any individual, partnership, association, business trust, corporation, entity, or any other organized group of persons, whether incorporated or not.

(i) "Seed" means any agricultural or vegetable seed.

(j) "Interested Party" means any person financially interested in a transaction involving seed.

(k) "Applicant" means an interested party who requests any inspection service with respect to seed.

(l) "Authorized agent" means an agent to whom authority to represent a person or government agency has been given by that person or government agency through delegation, contract or cooperative agreement, or other means.

(m) "Memorandum of Understanding" means a written plan between AMS and a State for carrying out their separate activities in a project of mutual interest to the parties involved.

(n) "Inspector" means a licensed employee of a State authorized pursuant to a Memorandum of Understanding or an employee of the Department authorized by the Director, to draw samples of seeds, seal containers, inspect records, test seeds for quality, issue certificates and reports, and bill for services.

(o) "Inspection" means sampling seeds, sealing containers, testing seeds for quality and reviewing records.

(p) "Appeal inspector" means an inspector or other person designated or authorized by the Division to perform appeal inspections under the Act and regulations in this subpart.

(q) "Certificate" means a certificate issued under the Act and the regulations in this subpart.

ADMINISTRATION

§ 75.3 Authority.

The Director is charged with the administration of the provisions of the regulations and the Act insofar as they relate to the subject matter of the regulations, under the supervision of the Secretary and the Administrator.

§ 75.4 Federal and State Cooperation.

Pursuant to the Act, the Administrator is authorized to cooperate with the appropriate State agencies in carrying out provisions of the Act and these regulations through Memoranda of Understanding. The Memorandum of Understanding shall specify the duties to be performed by the parties concerned with each party directing its own activities and utilizing its own resources.

§ 75.5 Regulations not applicable for certain purposes.

The regulations do not apply to the inspection of grain in the United States under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*), except to the extent that official grain samples received from the Federal Grain Inspection Service (FGIS) shall be examined for the presence of specified weed and crop seeds upon the request of FGIS.

§ 75.6 Nondiscrimination.

The conduct of all services under these regulations shall be accomplished without discrimination as to race, color, religion, sex, or national origin.

INSPECTION

§ 75.7 Inspection in accordance with methods prescribed or approved.

Inspection of seed shall be rendered pursuant to these regulations and under such conditions and in accordance with the methods of either the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA).

§ 75.8 Basis of service.

The regulations provide for inspection services pursuant to the Act. Seeds shall be inspected in accordance with the methods of either the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA); provided, that limitations in these rules respecting maximum lot size will not be observed and, provided further, that certification as to origin may be based on examination of records and certification of other seed certifying agencies.

§ 75.9 Who may obtain service.

An application for inspection service may be made by any interested party or his authorized agent.

§ 75.10 How to make application.

An application for service shall be confirmed in writing and addressed to the Federal Seed Laboratory, WSD, AMS, USDA, Beltsville, Maryland 20705.

§ 75.11 Content of application.

An application for service shall include the following information; (a) The date of application; (b) the kind and quantity of seed, and test(s) to be performed; (c) the methods and instructions for the inspection of the seed (either Association of Official Seed Analysts (AOSA) or International Seed Testing Association (ISTA) rules); (d) the name and address of the applicant and, if made by an authorized agent; and (e) such further information relating to the inspection as may be required.

§ 75.12 When application deemed filed.

An application shall be deemed filed when received by the Division or the Federal Seed Laboratory.

§ 75.13 When application may be rejected.

Any application for service may be rejected by the Director (a) for noncompliance with the Act or the regulations relating to applications for service in this subpart, or (b) when it is not practicable to provide the service. Each such applicant shall be promptly notified in writing.

§ 75.14 When application may be withdrawn.

An application may be withdrawn at any time before the requested service is rendered. The applicant will remain responsible for payment of expenses incurred in connection therewith as provided in § 75.44.

§ 75.15 Authority of agent.

Proof of authority of any person making an application as an agent may be required in the discretion of the official receiving the application.

§ 75.16 Accessibility of seeds.

Each lot of seed for which a lot inspection is requested shall be placed by the applicant so as to permit the entire lot to be sampled and a representative sample to be obtained as required.

§ 75.17 Testing.

Upon request by the applicant, tests may be made for kind, variety, germination, purity, weed seeds, disease pathogens, treatment, moisture, and other special tests, or any combination thereof for which prescribed methods of testing are established. The tests shall be in accordance with the methods of either the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA) as requested by the applicant.

§ 75.18 Sampling.

Sampling, when requested by the applicant, shall be in accordance with the methods of either the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA), depending upon the test method requested by the applicant.

§ 75.19 Seed lot inspection.

A lot inspection shall be made by obtaining a representative sample from a specified quantity of seed identified with a distinguishing mark or number to appear on all containers in the lot, and performing such test(s) as may be requested by the applicant. The identification mark or number must be approved by the inspector and will appear on the certificate to be issued.

§ 75.20 Submitted sample inspection.

A sample inspection shall be made by testing a sample of seed submitted by an applicant for inspection.

§ 75.21 Grain sample inspection.

A sample inspection shall be performed by examining official grain samples received from FGIS to identify specified weed and crop seeds upon the request of FGIS.

§ 75.22 Form of inspection certificate.

Inspection certificates shall be approved by the Director as to their form. No correction, erasure, or other change shall be made in the information on a certificate.

§ 75.23 Issuance of inspection certificate.

After an inspection has been completed, an inspection certificate shall be issued showing the results of the inspection in accordance with paragraph (a) or (b) of this section.

(a) *Lot inspection certificate.* A lot inspection certificate shall be issued to include the name of the inspector sampling and sealing the seed lot, the analysis results from testing the sample, the identifying mark or number which has been approved by the inspector to appear on each container in the seed lot, and any other factual information pertinent to the inspection.

(b) *Sample inspection certificate.* A sample inspection certificate shall be issued to show the results of the inspection of a sample of seed or grain submitted by an interested party. Each sample inspection certificate shall state the results of the inspection that applies only to the sample described in the certificate.

(c) *General authorization to issue certificates.* Certificates for inspections may be issued by any inspector authorized by the Director to perform the inspection covered by the certificate.

(d) *Name requirements.* The name and signature of the person who issued the inspection certificate shall be shown on the certificate. The original certificate must be signed, and the signature or a stamped facsimile shall be shown on each copy.

§ 75.24 Disposition of inspection certificate.

Upon issuance, the original and one copy of each inspection certificate shall be delivered or mailed to the applicant or otherwise delivered or mailed in accordance with the applicant's instructions. One copy of each inspection certificate shall be filed in the Federal Seed Laboratory. In case of a lost or destroyed certificate, a duplicate thereof labeled as such may be issued under the same number, date, and name.

§ 75.25 Issuance of corrected certificate.

(a) If any error is made in an inspection, a corrected inspection certificate may be issued.

(b) The original and copies of the corrected certificate shall be issued as promptly as possible to the same interested persons who received the incorrect certificate.

(c) The corrected certificate shall supersede the incorrect inspection certificate previously issued. The corrected certificate shall clearly identify, by certificate number and date, the incorrect certificate which it supersedes.

(d) The original and all copies of the superseded incorrect certificate shall be obtained by the Director, if possible. If it is not possible to obtain the original and all copies of the superseded certificate, to the extent possible, all parties involved will be notified to prevent misuse of the superseded certificate and the corrected certificate so marked as to the outstanding certificate.

APPEAL INSPECTION

§ 75.26 When appeal inspection may be requested.

A request for an appeal inspection may be made by any interested party regarding the results of an inspection as stated on an inspection certificate. Such request shall be made within thirty (30) days following the day on which an inspection certificate was issued.

§ 75.27 How to file an appeal.

Any request for an appeal inspection may be made orally or in writing to the Federal Seed Laboratory. If made orally, written confirmation is required. The applicant shall clearly state the reasons for requesting the appeal service. The original and all available copies of the certificate shall be returned to the appeal inspector assigned to make the appeal inspection.

§ 75.28 When a request for an appeal inspection may be withdrawn

A request for an appeal inspection may be withdrawn by the applicant at any time before the appeal inspection is performed: *Provided*, that, the appellant shall pay any expenses incurred in connection with the appeal as provided in § 75.46.

§ 75.29 When an appeal may be refused.

A request for an appeal inspection may be refused if:

(a) The reasons for an appeal inspection are frivolous or not substantial;

(b) The quality or condition of the seed has been altered since the inspection covering the seed on which the appeal inspection is requested;

(c) The lot in question in a lot inspection is not or cannot be made accessible for sampling;

(d) The lot relative to which appeal inspection is requested cannot be positively identified by the inspection as the lot from which drawn samples were previously inspected in a lot inspection; or

(e) The application is not in compliance with the regulations; and

(f) Such applicant shall be notified promptly of the reason for such refusal.

§ 75.30 Who shall perform appeal inspection.

An appeal inspection shall be performed by an inspector (other than the one from whose inspection the appeal is requested) authorized for this purpose by the Director.

§ 75.31 Appeal inspection certificate.

After an appeal inspection has been completed, an appeal inspection certificate shall be issued showing the results of such appeal inspection; and such certificate shall supersede the inspection certificate previously issued for the seed involved. Each appeal inspection certificate shall clearly identify the number and date of the inspection certificate which it supersedes. The superseded certificate shall become null and void upon the issuance of the appeal inspection certificate and shall no longer represent the quality or condition of the seed described therein. The inspector issuing an appeal inspection certificate shall forward notice of such issuance to such persons as considered necessary to prevent misuse of the superseded certificate if the original and all copies of such superseded certificate have not previously been delivered to the inspector issuing the appeal inspection certificate. The appeal inspection certificate shall be marked as to the existence of the outstanding certificate. The provisions in the regulations concerning forms of certificates and disposition of certificates shall apply to appeal inspection certificates, except that copies of such appeal inspection certificates shall be furnished to all interested parties who received copies of the superseded certificate.

LICENSING OF INSPECTORS

§ 75.32 Who may become licensed inspector.

Any person nominated by a cooperating State and who is found to have the necessary qualifications may be licensed by the Director as an inspector to perform such duties of inspection as specified by the Memorandum of Understanding. Such a license shall bear the signature of an authorized employee of the Department. A licensed inspector shall perform duties pursuant to the regulations in accordance with instructions issued or approved by the Director.

§ 75.33 Suspension or revocation of license of inspector.

Pending final action by the Administrator, the Director may suspend, whenever it is deemed that such action is necessary to assure that any service provided is performed properly, the license of any inspector, issued pursuant to the regulations by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefore. Within 7 days after receipt of notice and statement of reasons by a licensee, an appeal may be filed in writing with the Administrator supported by any argument or evidence as to why the license should not be suspended. After expiration of the 7-day period and consideration of such argument and evidence, the Administrator shall take such action as deemed appropriate with respect to a suspension or revocation.

§ 75.34 Surrender of license.

Upon termination of service as an inspector or suspension or revocation of such license, such licensee shall surrender the license immediately to the Federal Seed Laboratory.

SAMPLING PROVISIONS AND REQUIREMENTS

§ 75.35 Obtaining samples for lot inspections.

Samples of seed for lot inspections may be obtained by licensed inspectors or authorized employees of the Department.

§ 75.36 Representative sample.

No lot inspection sample shall be deemed representative of a lot of seed unless the sample (a) has been obtained by a licensed inspector or an authorized employee of the Department; (b) is of the size prescribed in the instructions; and (c) has been obtained, handled, and submitted in accordance with the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA) procedures.

§ 75.37 Submitted samples.

Submitted samples may be obtained by or for any interested person. (Instructions for sampling seed may be obtained upon request to the Director or the Federal Seed Laboratory.)

§ 75.38 Lot inspections.

Each lot inspection shall be made on the basis of a representative sample obtained from that lot of seed by a licensed inspector or an authorized employee of the Department. Each lot of seed which is offered for lot inspection shall be sealed at the time of sampling in accordance with methods and procedures of the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA).

§ 75.39 Use of file samples.

(a) File samples which are retained by inspection personnel in accordance with the regulations may be deemed representative for appeal inspections: Provided, that (1) the samples have remained in the custody of the inspection personnel who certificated the inspection; and (2) the inspection personnel who performed the inspection and the inspection personnel who are to perform the appeal inspection determine that the sample was representative of the seed at the time of the inspection and that the quality or condition of the seed in the sample and in the lot has not changed since the time of the inspection.

(b) Upon request of the applicant, and if practicable, a new sample may be obtained and examined as a part of an appeal inspection.

§ 75.40 Protecting samples.

Inspection personnel shall protect each sample from manipulation, substitution, and improper or careless handling which would deprive the sample of its representative character from the time of collection until the inspection is completed and the file sample has been discarded.

FEES AND CHARGES

§ 75.41 General.

Fees and charges for inspection services performed by Federal employees shall cover the cost of performing the service. Fees shall be for actual time required to render the service, calculated to the nearest 15-minute period except that a minimum of 1 hour shall apply for testing and a 2-hour minimum shall apply for sampling and sealing. Fees and charges shall be at the rate of $23.40 per hour. (Cost estimates may be obtained upon request to the Director or the Federal Seed Laboratory.)

§ 75.42 Sampling and sealing.

(a) Fees for inspection services provided by licensed inspectors may be charged by States participating in the program at rates established by the individual States.

(b) When onsite inspection services are performed by Federal employees at the request of the applicant:

(1) Fees for onsite inspections for sampling and sealing shall include the time for actual sampling and sealing, standby at the service site, travel time and actual travel costs to and from the site, and a per diem charge if the employee performing the service is paid per diem in accordance with existing travel regulations as appear in Agricultural Travel Regulations, including the Federal Travel Regulations, DM 2300-1;

(2) Hourly rates shall begin when the inspector begins travel to the service site and end when the inspector arrives back at his official station or residence, computed to the nearest quarter hour, less meal time, if any.

(3) A 2-hour minimum shall be charged for each onsite inspection.

§ 75.43 Laboratory testing.

Fees for testing each sample shall include the time required for actual testing, preparation of test records, issuing the certificate, and filing of samples and documents, with:

(a) Charges billed at the hourly rate in increments of 15 minutes.

(b) A minimum fee of 1 hour per sample for testing shall be charged.

§ 75.44 When application rejected or withdrawn.

When an application for inspection is rejected in accordance with § 75.13 or withdrawn in accordance with § 75.14, the applicant will be required to pay applicable fees for the time used by an inspector and other expenses incurred in connection with such application prior to its rejection or withdrawal.

§ 75.45 Charge for appeals.

A charge of 1 hour shall be made for each appeal filed under § 75.26, and the fee for an appeal inspection shall equal the fee for the original inspection from which the appeal is taken, plus any charges for travel or other expenses incurred in performing the appeal: *Provided*, that when a material error in the certificate or sample from which the appeal is taken is found by the appeal inspector the charge and fee shall be waived.

§ 75.46 When appeal refused or withdrawn.

When an appeal is refused in accordance with § 75.29 or withdrawn in accordance with § 75.28, the applicant will be required to pay for the time used by the appeal inspector and other expenses incurred in connection with such appeal prior to its denial, dismissal, or withdrawal.

§ 75.47 For certificates.

A charge of $3.30 per certificate will be made for copies of certificates other than those required to be distributed in § 75.23 and for the issuance of a duplicate certificate in accordance with § 75.24 and an appeal certificate in § 75.31.

MISCELLANEOUS

§ 75.48 Identification number.

The Director may require the use of official identification numbers in connection with seed certificated or sampled under the Act. When identification numbers are required, they shall be specified by the Director and shall be attached to, or stamped, printed, or stenciled on the lot of seed certificated or sampled in a manner specified by the Director.

SUBCHAPTER D—EXPORT AND DOMESTIC CONSUMPTION PROGRAMS

PART 80—FRESH IRISH POTATOES

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80.70 Amendment and termination.

AUTHORITY: Sec. 32, 49 Stat. 774, as amended; 7 U.S.C. 612c.

SOURCE: 43 FR 54921, Nov. 24, 1978, unless otherwise noted. Redesignated at 46 FR 63203, Dec. 31, 1981.

EDITORIAL NOTE: Nomenclature changes to Part 80 appear at 46 FR 63203, Dec. 31, 1981.

Subpart—Fresh Irish Potatoes—Livestock Feed Diversion Program

§ 80.1 General statement.

In order to encourage the domestic consumption of fresh Irish potatoes by diverting them from normal channels of trade and commerce, the Secretary of Agriculture, pursuant to the authority conferred by section 32 of Pub. L. 320, 74th Congress, as amended, offers to make payment for the diversion for use as livestock feed of 1978 crop potaotes produced and stored in certain Maine townships designated in § 80.3, subject to the terms and conditions set forth in this subpart. Information relating to this program and forms prescribed for use hereunder may be obtained from the following:

Fruit and Vegetable Quality Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250.

State of Maine Agricultural Stabilization and Conservation Committee.

Aroostook County Maine Agricultural Stabilization and Conservation Committee.

§ 80.2 Administration.

The program provided for in this subpart will be administered under the general direction and supervision of the Director, Fruit and Vegetable Quality Division, Agricultural Marketing Service, and in the field will be carried out by the Agricultural Stabilization and Conservation Service through the Maine Agricultural Stabilization and Conservation State Committee and the Aroostook County Agricultural Stabilization and Conservation County Committee, hereinafter referred to as the State and County Committees. The State Committee will authorize one or more employees to act as representatives of the United States Department of Agriculture, hereinafter referred to as USDA, to approve applications for participation. The State and County Committees or their authorized representatives do not have authority to modify or waive any of the provisions of this subpart or any amendments or supplements to this subpart.

§ 80.3 Area.

This program will be effective in the following Maine townships of Aroostook and Penobscot Counties:

AROOSTOOK COUNTY

Van Buren, Cyr, Hamlin, Frenchville, St. Agatha, New Canada, Grand Isle, Fort Kent, Winterville, Eagle Lake, Wallagrass, St. John, St. Francis, Silver Ridge, Township XVII, Range V, Madawaska, Moro, Merrill, Smyrna, Dyer Brook, Oakfield, Crystal, Island Falls, Sherman, Hersey, and Benedicta.

PENOBSCOT COUNTY

Patten and Stacyville.

Information with respect to the areas designated may be obtained from the offices listed in § 80.1.

§ 80.4 Period of program.

This program will be effective from the date of this announcement and continue for sixty days.

§ 80.5 Rate of payment.

The rate of payment per 100 pounds of potatoes which meet the requirements of Specification A as defined in § 80.11 and which are diverted as prescribed in § 80.10 will be two dollars and 20 cents per hundredweight from the inception of the program through a period of 30 days; and one dollar and seventy cents thereafter to termination of the program. No payment will be made for any fractional part of 100 pounds and such quantities shall be disregarded.

§ 80.6 Eligibility for payment.

Payments will be made under this program to any individual, partnership, association, or corporation located in the continental United States, (a) who executes and files an application for participation on the prescribed form, (b) who files a performance bond as provided in § 80.8, (c) whose application is approved, (d) who diverts fresh Irish potatoes produced and stored within the State of Maine townships listed in § 80.3 specified in the approved application, directly or through any other person or persons, (e) who files a claim as provided in § 80.14, and (f) who complies with all other terms and conditions contained in this subpart. The Director may prescribe and publish further conditions of eligibility when deemed desirable to assure that growers are the primary recipients of program benefits.

§ 80.7 Application and approval for participation.

Persons desiring to participate in this program must submit a written application on Form ASCS-117 "Application for Participation in Fresh Irish Potato Livestock Feed Diversion Program". Each applicant must submit a performance bond as provided in § 80.8. Applications and bonds should be submitted to the Aroostook, Maine County ASCS Office. Applications will be considered in the order received and in accordance with the availability of funds. Applicants will be notified of the approval or nonapproval of their application. Approved applications may be modified or amended with the consent of the applicant and the duly authorized representative of the State Committee: *Provided*, That such modification or amendment shall not be in conflict with the provisions of this subpart or any amendment or supplements hereto. An approved applicant is hereinafter referred to as "the diverter".

§ 80.8 Performance bond.

Each applicant shall submit with his first application for participation a performance bond as further assurance that the potatoes diverted pursuant to this program will be used exclusively for feeding to livestock by methods prescribed in § 80.13. The bond shall be executed on Form ASCS-119, "Performance Bond", by the principal and two individual sureties, all of whom shall agree to indemnify USDA for any losses, claims, or payments made by USDA with respect to any quantity of such potatoes not used for livestock feed. USDA may disapprove any bond if for any reason any surety does not in the opinion of USDA afford USDA full protection and security.

§ 80.9 Period of diversion.

The potatoes in connection with which payments are to be made must be diverted (a) after the date of approval of the diverter's application, (b) within the time period specified in the approved application, and (c) in any event on or before the termination date of the program.

§ 80.10 Definition of diversion.

Diversion of potatoes for use as livestock feed as used herein means the initial processing of potatoes for feeding to livestock by cutting, chopping, slicing, gouging, crushing, or cooking to the degree that the general appearance of the lot as a whole has been damaged to such an extent that, in the opinion of the inspector, the potatoes are readily and obviously identifiable as having been initially processed and rendered unsuitable to enter into normal channels of trade and commerce as potatoes. However, when the diverter is the feeder, ensiling or freezing can be methods of diversion.

§ 80.11 Diversion specifications.

Potatoes in connection with which payments will be made must meet the requirements of "Specification A", which is hereby defined as meaning "Field Run" or "Cellar Run" potatoes which are equal to or better than the quality requirements of the Maine Processing Grade, specified in circular 46, promulgated by the Maine Commissioner of Agriculture, dated November 1, 1971. For those potatoes which fail to meet the requirements of the Maine Processing Grade, payments will be based on the percentage of the potatoes meeting the grade requirements. Notwithstanding the above, after consultation with industry representatives, the Director may exclude from meeting the requirements of Specification A any additional grades and sizes which otherwise would meet the requirements of Specification A. Any such exclusion will be set forth in the application form for diversion authorization in the particular area to which it is applicable.

§ 80.12 Inspection and certificate of diversion.

Prior to diversion, the potatoes shall be inspected by an inspector authorized or licensed by the Secretary of Agriculture to inspect and certify the class, quality, and condition of fresh Irish potatoes. The diverter shall be responsible for requesting and arranging for inspection so that the inspector can be present to determine the proportion of potatoes in each lot which meet the quality requirements of Specification A. The inspector shall also verify the quantity of potatoes being diverted and that such potatoes have been diverted as defined in § 80.10. The diverter shall furnish such scale tickets, weighing facilities, or volume measurements as determined by the inspector to be necessary for ascertaining the net weight of the potatoes being diverted. The cost of inspecting, verifying the quantity, certifying that diversion has been performed, and issuing certificates thereof shall be borne by the diverter. Certificates shall be prepared on Form ASCS-118, "Invoice and Certificates of Inspection and Diversion."

§ 80.13 Methods of feeding.

Following the initial processing as specified in § 80.10, the potatoes must be fed to livestock by one or more of the following methods:

(a) Feeding in barns or feed lots directly from troughs, bunkers, bins, or other suitable feeding receptacle;

(b) Spreading on pasture land where livestock are grazing, but the rate of spreading during any seven-day period shall not exceed 500 pounds of potatoes per head of cattle or horses or 250 pounds per head of sheep or swine; or

(c) Utilizing the potatoes for livestock feed after dehydration through a process of alternate freezing and thawing. In addition to other program requirements, the following special terms and conditions will be applicable to such method:

(1) The potatoes must be spread on pasture consisting of sod or other grassland and the land must be fenced. The potatoes may not be spread on land set aside under the Feed Grain Program, the Wheat Program, or under a Water Bank Program agreement. The land on which the potatoes are spread may not be plowed or otherwise cultivated until it is determined by USDA that adequate pasturing by livestock has taken place.

(2) The potatoes may be spread no deeper than 4 inches at any point.

(3) Diversion payments will be computed at the rate in effect at the time of initial processing, but fifty percent of the payment to diverters by USDA will not be made until it is determined by USDA that adequate pasturing by livestock has taken place. Adequate pasturing will be considered to have occurred when potatoes have been grazed or consumed to the extent little or no feed value remains.

(i) Consideration shall be given to evidence that reasonable numbers of livestock had ample time to consume the edible potatoes as determined through actual counts of livestock or visual remains thereof—tracks, droppings, pasture growth, etc.

(ii) In the event potatoes remain after pasturing, evidence must exist that most of such potatoes are no longer edible because of normal spoilage due to weather conditions, spreading, damage, tramplings, droppings, etc. The range of losses from such causes may be expected to be from 25 percent to 50 percent of the potatoes originally spread. In case of greater loss, documentation satisfactory to ASCS must be provided to establish the cause of such loss.

[43 FR 54921, Nov. 24, 1978, as amended at 44 FR 9371, Feb. 13, 1979; 44 FR 16883, Mar. 20, 1979. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 80.14 Claim for payment.

In order to obtain payment the diverter must submit a properly executed "Invoice and Certificates of Inspection and Diversion", Form ASCS-118, and a certification of receipt by the ultimate feeder to the State ASCS Office which approved his application. All such claims shall be filed not later than one calendar month after the termination date specified in the applicable approved application.

§ 80.15 Compliance with program provisions.

If USDA determines that any quantity of potatoes diverted under this program was not used exclusively for livestock feed purposes, whether such failure was caused directly by the diverter or by any other person or persons, the diverter shall not be entitled to diversion payments in connection with such potatoes, shall refund to USDA any payment made in connection with such potatoes, and shall be liable to USDA for any other damages incurred as a result of such failure to use the potatoes exclusively for livestock feed purposes. USDA may deny any diverter the right to participate in this program or the right to receive payments in connection with any diversion previously made under this program, or both, if USDA determines that:

(a) The diverter has failed to use or caused to be used any quantity of potatoes diverted under this program exclusively for livestock feed purposes, whether such failure was caused directly by the diverter or by any other person or persons, (b) the diverter has not acted in good faith in connection with any transaction under this program, or (c) the diverter has failed to discharge fully any obligation assumed by him under this program. Persons making any misrepresentation of facts in connection with this program for the purpose of defrauding USDA will be subject to the applicable civil and criminal provisions of the United States Code.

§ 80.16 Inspection of premises.

The diverter or livestock feeder shall permit authorized representatives of USDA at any reasonable time to have access to his premises to inspect and examine such potatoes as are being diverted or stored for diversion, and to inspect and examine the diverter's facilities for diverting potatoes in order to determine to what extent there is or has been compliance with the provisions of this program.

§ 80.17 Records and accounts.

If the diverter sells or otherwise disposes of potatoes diverted pursuant to this program to any other person or persons for use as livestock feed or if the diverter acquires potatoes for diversion from producers, the diverter shall keep accurate records and accounts showing the details relative to the diversion and disposition of such potatoes. The diverter shall permit authorized representatives of USDA and the General Accounting Office at any reasonable time to inspect, examine, and make copies of such records and accounts in order to determine to what extent there is or has been compliance with the provisions of this program. Such records and accounts shall be retained by the diverter for three years after date of last payment to him under the program or for two years after date of audit of records by USDA as provided herein, whichever is the later.

§ 80.18 Set-off.

If the diverter is indebted to USDA or to any other agency of the United States, set-off may be made against any amount due the diverter hereunder. Setting off shall not deprive the diverter of the right to contest the justness of the indebtedness involved, either by administrative appeal or by legal action.

§ 80.19 Joint payment or assignment.

The diverter may name a joint payee on the claim for payment or may assign, in accordance with the provisions of the Assignment of Claims Act of 1940, Pub. L. 811, 76th Congress, as amended (31 U.S.C. 203, 41 U.S.C. 15), the proceeds of any claim to a bank, trust company, Federal lending agency, or other recognized financing institution: *Provided*, That such assignment shall be recognized only if and when the assignee thereof files written notice of the assignment with the authorized representative of USDA who approved the application, together with a true copy of the instrument of assignment, in accordance with the instructions on Form CSS-66 or ASCS-66 "Notice of Assignment", which form must be used in giving notice of assignment to USDA. The "Instrument of Assignment" may be executed on Form CSS-347 or the assignee may use his own form of assignment. The CSS forms may be obtained from the State ASCS Office or the Washington office shown in § 80.1.

§ 80.20 Officials not to benefit.

No member of or delegate to Congress or Resident Commissioner, shall be entitled to any share or part of any contract resulting from this program or to any benefits that may arise therefrom, but this provision shall not be considered to extend to such a contract if made with a corporation for its general benefit or to any such person acting in his capacity as a farmer.

§ 80.21 Amendment and termination.

This subpart may be amended or terminated at any time but the amendment or termination shall not be effective earlier than the date of filing with the Office of the Federal Register. No amendment or termination shall be applicable to any potatoes diverted before the effective time of such amendment or termination.

Subpart—Fresh Russet Potatoes—Livestock Feed and Starch Manufacture Diversion Program

SOURCE: 44 FR 3254, Jan. 16, 1979, unless otherwise noted. Redesignated at 46 FR 63203, Dec. 31, 1981.

§ 80.25 General statement.

In order to encourage the domestic consumption of fresh Russet potatoes by diverting them from normal channels of trade and commerce, the Secretary of Agriculture, pursuant to the authority conferred by section 32 of Pub. L. 320, 74th Congress, as amended, offers to make payment for the diversion for use as livestock feed or starch manufacture of 1978 crop Russet potatoes, subject to the terms and conditions set forth in this subpart. Information relating to this program and forms prescribed for use hereunder may be obtained from the following:

Fruit and Vegetable Quality Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250.

State Agricultural Stabilization and Conservation Committees in the respective States.

County Agricultural Stabilization and Conservation Committees in the respective counties.

§ 80.26 Administration.

The program provided for in this subpart will be administered under the general direction and supervision of the Director, Fruit and Vegetable Quality Division, Agricultural Marketing Service, and in the field will be carried out by the Agricultural Stabilization and Conservation Service through Agricultural Stabilization and Conservation County Committees, hereinafter referred to as the State and County Committees. Each State Committee will authorize one or more employees to act as representatives of the United States Department of Agriculture, hereinafter referred to as USDA, to approve applications for participation. The State and County Committees or their authorized representatives do not have authority to modify or waive any of the provisions of this subpart or any amendments or supplements to this subpart.

§ 80.27 Area.

This program will be effective in all areas of the country where Russet potatoes are produced and sold.

§ 80.28 Period of program.

This program will be effective from the date of this announcement and continue for sixty days.

§ 80.29 Rate of payment.

The rate of payment per 100 pounds of potatoes in each lot which meet the requirements of Specification A as defined in § 80.34 will be two dollars per hundredweight for potatoes diverted from the inception of the program through a period of 40 days; and one dollar and seventy-five cents for potatoes diverted thereafter to termination of the program. No payment will be made for any fractional part of 100 pounds and such quantities shall be disregarded.

[44 FR 10052, Feb. 16, 1979. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 80.30 Eligibility for payment.

Payments will be made under this program to any individual, partnership, association, or corporation producing Russet potatoes located in the continental United States, (a) who executes and files an application for participation on the prescribed form, (b) who files a performance bond as provided in § 80.32, (c) whose application is approved, (d) who diverts his fresh Russet potatoes within the States specified in the approved application, directly or through any other person or persons in a volume not exceeding 60,000 hundredweight, (e) who files a claim as provided in § 80.38, and (f) who complies with all other terms and conditions contained in this subpart.

§ 80.31 Application and approval for participation.

Producers desiring to participate in this program must submit a written application on Form ASCS-117 "Application for Participation in Fresh Irish Potato Livestock Feed Diversion Program". Each applicant must submit a performance bond as provided in

§ 80.32. Applications and bonds should be submitted to the County ASCS Office for the county within which the potatoes are to be diverted. Applications will be considered in the order received and in accordance with the availability of funds. Applicants will be notified of the approval, in whole or in part, or nonapproval of their application. Approved applications may be modified or amended with the consent of the applicant and the duly authorized representative of the State Committee: *Provided,* That such modification or amendment shall not be in conflict with the provisions of this subpart or any amendment or supplements hereto. An approved applicant is hereinafter referred to as "the diverter".

§ 80.32 Performance bond.

In order to protect the Government's interest, each applicant shall submit with his first application for participation a performance bond as further assurance that the potatoes diverted pursuant to this program will be used exclusively for feeding to livestock or for starch manufacture by methods prescribed in § 80.37. The bond shall be executed on Form ASCS-119, "Performance Bond", by the principal and two individual sureties, all of whom shall agree to indemnify USDA for any losses, claims, or payments made by USDA with respect to any quantity of such potatoes not used for livestock feed or starch manufacture. USDA may disapprove any bond if for any reason any surety does not in the opinion of USDA afford USDA full protection and security.

§ 80.33 Period of diversion.

The potatoes in connection with which payments are to be made must be diverted (a) after the date of approval of the diverter's application, (b) within the time period specified in the approved application, and (c) in any event on or before the termination date of the program.

§ 80.34 Definition of diversion.

Diversion of potatoes for use as livestock feed or starch manufacture as used herein means the initial processing of potatoes for feeding to livestock or for starch manufacture by cutting, chopping, ensiling, slicing, gouging, crushing, cooking or spreading for alternate freezing and thawing to the degree that the general appearance of the lot as a whole has been damaged to such an extent that, in the opinion of the inspector, the potatoes are readily and obviously identifiable as having been initially processed and rendered unsuitable to enter into normal channels of trade and commerce as potatoes.

§ 80.35 Diversion specifications.

Russet potatoes in connection with which payments will be made, will be the potatoes in each lot which meet the requirements of "Specification A", which potatoes are hereby defined as meaning "Cellar Run" potatoes[1] which are equal to or better than the quality requirements of U.S. No. 2 Processing Grade (7 CFR 51.3411), except that they must have a minimum diameter of 1½ inches and no tolerance will be allowed for defects or undersize. Also, fry color, glucose content, and specific gravity determination are hereby waived under this grade determination. Potatoes which by clipping ends or second growth could be made to meet the quality requirements of U.S. No. 2 Processing Grade need not be so clipped to be classed as Specification A, but the weight of the portions which customarily would be clipped off shall be deducted in determining the weight of those potatoes in the lot which do meet the requirements of Specification A.

§ 80.36 Inspection and certificate of diversion.

Prior to diversion, the potatoes shall be inspected by an inspector authorized or licensed by the Secretary of Agriculture to inspect and certify the class, quality, and condition of fresh Irish potatoes. The diverter shall be responsible for requesting and arranging for inspection so that the inspector can be present to determine the proportion of potatoes in each lot which meet the quality requirements of Specification A. The inspector shall also verify the quantity of potatoes being diverted and that such potatoes have been diverted as defined in § 80.34. The diverter shall furnish such scale tickets, weighing facilities, or volume measurements as determined by the inspector to be necessary for ascertaining the net weight of the potatoes being diverted. The cost of inspecting, verifying the quantity, certifying that diversion has been performed, and issuing certificates thereof shall be borne by the diverter. Certificates shall be prepared on Form ASCS-118, "Invoice and Certificates of Inspection and Diversion."

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[1] "Cellar Run" potatoes are hereby defined as storage potatoes which have not been sorted.

§ 80.37 Methods of utilization.

Following the initial processing as specified in § 80.34, the potatoes must be fed to livestock or used for starch manufacture by one or more of the following methods:

(a) Feeding in barns or feed lots directly from troughs, bunkers, bins, or other suitable feeding receptacle;

(b) Spreading on pasture land where livestock are grazing, but the rate of spreading during any seven-day period shall not exceed 500 pounds of potatoes per head of cattle or horses or 250 pounds per head of sheep or swine; or

(c) Utilizing the potatoes for livestock feed after dehydration through a process of alternate freezing and thawing. In addition to other program requirements, the following special terms and conditions will be applicable to such method:

(1) The potatoes must be spread on pasture consisting of sod or other grassland. The potatoes may not be spread on land set aside under the Feed Grain Program, the Wheat Program, or under a Water Bank Program agreement. The land on which the potatoes are spread may not be plowed or otherwise cultivated until it is determined by USDA that adequate pasturing by livestock has taken place.

(2) The potatoes may be spread no deeper than 4 inches at any point.

(3) Diversion payments will be computed at the rate in effect at the time of initial processing, but fifty percent of the payment to diverters by USDA will not be made until it is determined by USDA that adequate pasturing by livestock has taken place. Adequate pasturing will be considered to have occurred when potatoes have been grazed or consumed to the extent little or no feed value remains.

(i) Consideration shall be given to evidence that reasonable numbers of livestock had ample time to consume the edible potatoes as determined through actual counts of livestock or visual remains thereof—tracks, droppings, pasture growth, etc.

(ii) In the event potatoes remain after pasturing, evidence must exist that most of such potatoes are no longer edible because of normal spoilage due to weather conditions, spreading, damage, tramplings, droppings, etc. The range of losses from such causes may be expected to be from 25 percent to 50 percent of the potatoes originally spread. In case of greater loss, documentation satisfactory to ASCS must be provided to establish the cause of such loss.

(d) Utilizing the potatoes for starch manufacture in a starch manufacturing plant approved by USDA. Diversion payments will be computed at the rate in effect at the time of initial processing, but payment to diverters by USDA will not be made until it is determined by USDA that conversion to starch has taken place.

[44 FR 3254, Jan. 16, 1979, as amended at 44 FR 10052, Feb. 16, 1979. Redesignated at 46 FR 63203, Dec. 31, 1981]

§ 80.38 Claim for payment.

In order to obtain payment, the diverter must submit to the State ASCS Office which approved his application a properly executed "Invoice and Certificates of Inspection and Diversion", Form ASCS-118, and (except where the diverter is the feeder) a certification of receipt by the ultimate feeder or starch manufacturer. All such claims shall be filed not later than one calendar month after the termination date specified in the applicable approved application.

§ 80.39 Compliance with program provisions.

If USDA determines that any quantity of potatoes diverted under this program was not used exclusively for livestock feed purposes or starch manufacture, whether such failure was caused directly by the diverter or by any other person or persons, the diverter shall not be entitled to diversion payments made in connection with such potatoes, shall refund to USDA any payment made in connection with such potatoes, and shall be liable to USDA for any other damages incurred as a result of such failure to use the potatoes exclusively for livestock feed or starch manufacture purposes. USDA may deny any diverter the right to participate in this program or the right to receive payments in connection with any diversion previously made under this program, or both, if USDA determines that:

(a) The diverter has failed to use or caused to be used any quantity of potatoes diverted under this program exclusively for livestock feed or starch manufacture purposes, whether such failure was caused directly by the diverter or by any other person or persons, (b) the diverter has not acted in good faith in connection with any transaction under this program, or (c) the diverter has failed to discharge fully any obligation assumed by him under this program. Persons making any misrepresentation of facts in connection with this program for the purpose of defrauding USDA will be subject to the applicable civil and criminal provisions of the United States Code.

§ 80.40 Inspection of premises.

The diverter shall permit authorized representatives of USDA at any reasonable time to have access to his premises and any other premises on which diversion, livestock feeding or starch manufacture is to take place, to inspect and examine potatoes which are being diverted, used, or stored for diversion or use, and to inspect and examine the facilities for diverting, storing and using potatoes in order to determine to what extent there is or has been compliance with the provisions of this program.

§ 80.41 Records and accounts.

If the diverter sells or otherwise disposes of potatoes diverted pursuant to this program to any other person or persons for use as livestock feed or starch manufacture, the diverter shall keep accurate records and accounts showing the details relative to the diversion and disposition of such potatoes. The diverter shall permit authorized representatives of USDA and the General Accounting Office at any reasonable time to inspect, examine, and make copies of such records and accounts in order to determine to what extent there is or has been compliance with the provisions of this program. Such records and accounts shall be retained by the diverter for three years after date of last payment to him under the program or for two years after date of audit of records by USDA as provided herein, whichever is the later.

§ 80.42 Set-off.

If the diverter is indebted to USDA or to any other agency of the United States, set-off may be made against any amount due the diverter hereunder. Setting off shall not deprive the diverter of the right to contest the justness of the indebtedness involved, either by administrative appeal or by legal action.

§ 80.43 Joint payment or assignment.

The diverter may name a joint payee on the claim for payment or may assign, in accordance with the provisions of the Assignment of Claims Act of 1940, Pub. L. 811, 76th Congress, as amended (31 U.S.C. 203, 41 U.S.C. 15), the proceeds of any claim to a bank, trust company, Federal lending agency, or other recognized financing institution: *Provided*, That such assignment shall be recognized only if and when the assignee thereof files written notice of the assignment with the authorized representative of USDA who approved the application, together with a true copy of the instrument of assignment, in accordance with the instructions on Form CSS-66 or ASCS-66 "Notice of Assignment", which form must be used in giving notice of assignment to USDA. The

"Instrument of Assignment" may be executed on Form CSS-347 or ASCS-36, or the assignee may use his own form of assignment. The forms may be obtained from the State ASCS Office or the Washington office shown in § 80.25.

§ 80.44 Officials not to benefit.

No member of or delegate to Congress or Resident Commissioner, shall be entitled to any share or part of any contract resulting from this program or to any benefits that may arise therefrom, but this provision shall not be considered to extend to such a contract if made with a corporation for its general benefit or to any such person acting in his capacity as a farmer.

§ 80.45 Amendment and termination.

This subpart may be amended or terminated at any time but the amendment or termination shall not be effective earlier than the date of filing with the Office of the Federal Register. No amendment or termination shall be applicable to any potatoes diverted before the effective time of such amendment or termination.

Subpart—Fresh Round White and Red Potatoes—Livestock Feed Diversion Program

SOURCE: 44 FR 12955, Mar. 9, 1979, unless otherwise noted. Redesignated at 46 FR 63203, Dec. 31, 1981.

§ 80.50 General statement.

In order to encourage the domestic consumption of fresh Round White and Red potatoes by diverting them from normal channels of trade and commerce, the Secretary of Agriculture, pursuant to the authority conferred by section 32 of Pub. L. 320, 74th Congress, as amended, offers to make payment for the diversion for use as livestock feed of 1978 crop Round White and Red potatoes, subject to the terms and conditions set forth in this subpart. Information relating to this program and forms prescribed for use hereunder may be obtained from the following:

Fruit and Vegetable Quality Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250.

State Agricultural Stabilization and Conservation Committees in the States of Minnesota and North Dakota.

County Agricultural Stabilization and Conservation Committees in the respective counties.

§ 80.51 Administration.

The program provided for in this subpart will be administered under the general direction and supervision of the Director, Fruit and Vegetable Quality Division, Food Safety and Quality Service, and in the field will be carried out by the Agricultural Stabilization and Conservation Service through Agricultural Stabilization and Conservation County Committees, hereinafter referred to as the State and County Committees. Each State Committee will authorize one or more employees to act as representatives of the United States Department of Agriculture, hereinafter referred to as USDA, to approve applications for participation. The State and County Committees or their authorized representatives do not have authority to modify or waive any of the provisions of this subpart or any amendments or supplements to this subpart.

§ 80.52 Area.

This program will be effective in the States of Minnesota and North Dakota.

§ 80.53 Period of program.

This program will be effective for a thirty day period beginning March 12, 1979.

§ 80.54 Rate of payment.

The rate of payment per 100 pounds of potatoes in each lot which meet the requirements of Specification A as defined in § 80.60 will be two dollars per hundredweight for potatoes diverted from the inception of the program through a period of 30 days. No payment will be made for any fractional part of 100 pounds and such quantities shall be disregarded.

§ 80.55 Eligibility for payment.

Payments will be made under this program to any individual, partnership, association, or corporation producing Round White and Red potatoes in the States of Minnesota and North Dakota, (a) who executes and files an application for participation on the prescribed form, (b) who files a performance bond as provided in § 80.57, (c) whose application is approved, (d) who diverts his fresh Round White and Red potatoes within the States specified in the approved application, directly or through any other person or persons, (e) who files a claim as provided in § 80.63, and (f) who complies with all other terms and conditions contained in this subpart.

§ 80.56 Application and approval for participation.

Producers desiring to participate in this program must submit a written application on Form ASCS-117 "Application for Participation in Fresh Irish Potato Livestock Feed Diversion Program". Each applicant must submit a performance bond as provided in § 80.57. Applications and bonds should be submitted to the County ASCS Office for the county within which the potatoes are to be diverted. Applications will be considered in the order received and in accordance with the availability of funds. Applicants will be notified of the approval, in whole or in part, or nonapproval of their application. Approved applications may be modified or amended with the consent of the applicant and the duly authorized representative of the State Committee: *Provided*, that such modification or amendment shall not be in conflict with the provisions of this subpart or any amendment or supplements hereto. An approved applicant is hereinafter referred to as "the diverter".

§ 80.57 Performance bond.

In order to protect the Government's interest, each applicant shall submit with his first application for participation a performance bond as further assurance that the potatoes diverted pursuant to this program will be used exclusively for feeding to livestock by methods prescribed in § 80.62. The bond shall be executed on Form ASCS-119, "Performance Bond", by the principal and two individual sureties, all of whom shall agree to indemnify USDA for any losses, claims, or payments made by USDA with respect to any quantity of such potatoes not used for livestock feed. USDA may disapprove any bond if for any reason any surety does not in the opinion of USDA afford USDA full protection and security.

§ 80.58 Period of diversion.

The potatoes in connection with which payments are to be made must be diverted (a) after the date of approval of the diverter's application, (b) within the time period specified in the approved application, and (c) in any event on or before the termination date of the program.

§ 80.59 Definition of diversion.

Diversion of potatoes for use as livestock feed as used herein means the initial processing of potatoes for feeding to livestock by cutting, chopping, ensiling, slicing, gouging, crushing, cooking or spreading for alternate freezing and thawing to the degree that the general appearance of the lot as a whole has been damaged to such an extent that, in the opinion of the inspector, the potatoes are readily and obviously identifiable as having been initially processed and rendered unsuitable to enter into normal channels of trade and commerce as potatoes.

§ 80.60 Diversion specifications.

Round White and Red potatoes in connection with which payments will be made, will be the potatoes in each lot which meet the requirements of "Specification A", which potatoes are hereby defined as meaning "Cellar Run" potatoes [1] which are equal to or better than the quality requirements of U.S. No. 2 Processing Grade (7 CFR 51.3411), except that they must have a minimum diameter of 1½ inches and no tolerance will be allowed for defects or undersize. Also, fry color, glucose content, and specific gravity determination are hereby waived under this grade determination. Potatoes which by clipping ends or second growth could be made to meet the quality requirements of U.S. No. 2 Processing Grade need not be so clipped to be classed as Specification A, but the weight of the portions which customarily would be clipped off shall be deducted in determining the weight of those potatoes in the lot which do meet the requirements of Specification A.

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[1] "Cellar Run" potatoes are hereby defined as storage potatoes which have not been sorted.

§ 80.61 Inspection and certificate of diversion.

Prior to diversion, the potatoes shall be inspected by an inspector authorized or licensed by the Secretary of Agriculture to inspect and certify the class, quality, and condition of fresh Irish potatoes. The diverter shall be responsible for requesting and arranging for inspection so that the inspector can be present to determine the proportion of potatoes in each lot which meet the quality requirements of Specification A. The inspector shall also verify the quantity of potatoes being diverted and that such potatoes have been diverted as defined in § 80.59. The diverter shall furnish such scale tickets, weighing facilities, or volume measurements as determined by the inspector to be necessary for ascertaining the net weight of the potatoes being diverted. The cost of inspecting, verifying the quantity, certifying that diversion has been performed, and issuing certificates thereof shall be borne by the diverter. Certificates shall be prepared on Form ASCS-118, "Invoice and Certificates of Inspection and Diversion."

§ 80.62 Methods of utilization.

Following the initial processing as specified in § 80.59, the potatoes must be fed to livestock by one or more of the following methods:

(a) Feeding in barns or feed lots directly from troughs, bunkers, bins, or other suitable feeding receptacle;

(b) Spreading on pasture land where livestock are grazing, but the rate of spreading during any seven-day period shall not exceed 500 pounds of potatoes per head of cattle or horses or 250 pounds per head of sheep or swine; or

(c) Utilizing the potatoes for livestock feed after dehydration through a process of alternate freezing and thawing. In addition to other program requirements, the following special terms and conditions will be applicable to such method:

(1) The potatoes must be spread on pasture consisting of sod or other grassland. The potatoes may not be spread on land set aside under the Feed Grain Program, the Wheat Program, or under a Water Bank Program agreement. The land on which the potatoes are spread may not be plowed or otherwise cultivated until it is determined by USDA that adequate pasturing by livestock has taken place.

(2) The potatoes may be spread no deeper than 4 inches at any point.

(3) Diversion payments will be computed at the rate of $2.00 per hundredweight, but fifty percent of the payment to diverters by USDA will not be made until it is determined by USDA that adequate pasturing by livestock has taken place. Adequate pasturing will be considered to have occurred when potatoes have been grazed or consumed to the extent little or no feed value remains.

(i) Consideration shall be given to evidence that reasonable numbers of livestock had ample time to consume the edible potatoes as determined through actual counts of livestock or visual remains thereof—tracks, droppings, pasture growth, etc.

(ii) In the event potatoes remain after pasturing, evidence must exist that most of such potatoes are no longer edible because of normal spoilage due to weather conditions, spreading, damage, tramplings, droppings, etc. The range of losses from such causes may be expected to be from 25 percent to 50 percent of the potatoes originally spread. In case of greater loss, documentation satisfactory to ASCS must be provided to establish the cause of such loss.

§ 80.63 Claim for payment.

In order to obtain payment, the diverter must submit to the State ASCS Office which approved his application a properly executed "Invoice and Certificates of Inspection and Diversion", Form ASCS-118, and (except where the diverter is the feeder) a certification of receipt by the ultimate feeder. All such claims shall be filed not later than one calendar month after the termination date specified in the applicable approved application.

§ 80.64 Compliance with program provisions.

If USDA determines that any quantity of potatoes diverted under this program was not used exclusively for livestock feed purposes, whether such failure was caused directly by the diverter or by any other person or persons, the diverter shall not be entitled to diversion payments made in connection with such potatoes, shall refund to USDA for any other damages incurred as a result of such failure to use the potatoes exclusively for livestock feed purposes. USDA may deny any diverter the right to participate in this program or the right to receive payments in connection with any diversion previously made under this program, or both, if USDA determines that: (a) The diverter has failed to use or caused to be used any quantity of potatoes diverted under this program exclusively for livestock feed, whether such failure was caused directly by the diverter or by any other person or persons, (b) the diverter has not acted in good faith in connection with any transaction under this program, or (c) the diverter has failed to discharge fully any obligation assumed by him under this program. Persons making any misrepresentation of facts in connection with this program for the purpose of defrauding USDA will be subject to the applicable civil and criminal provisions of the United States Code.

§ 80.65 Inspection of premises.

The diverter shall permit authorized representatives of USDA at any reasonable time to have access to his premises and any other premises on which diversion for livestock feeding is to take place, to inspect and examine potatoes which are being diverted, used, or stored for diversion or use, and to inspect and examine the facilities for diverting, storing and using potatoes in order to determine to what extent there is or has been compliance with the provisions of this program.

§ 80.66 Records and accounts.

If the diverter sells or otherwise disposes of potatoes diverted pursuant to this program to any other person or persons for use as livestock feed or starch manufacture, the diverter shall keep accurate records and accounts showing the details relative to the diversion and disposition of such potatoes. The diverter shall permit authorized representatives of USDA and the General Accounting Office at any reasonable time to inspect, examine, and make copies of such records and accounts in order to determine to what extent there is or has been compliance with the provisions of this program. Such records and accounts shall be retained by the diverter for three years after date of last payment to him under the program or for two years after date of audit of records by USDA as provided herein, whichever is the later.

§ 80.67 Set-off.

If the diverter is indebted to USDA or to any other agency of the United States, set-off may be made against any amount due the diverter hereunder. Setting off shall not deprive the diverter of the right to contest the justness of the indebtedness involved, either by administrative appeal or by legal action.

§ 80.68 Joint payment or assignment.

The diverter may name a joint payee on the claim for payment or may assign, in accordance with the provisions of the Assignment of Claims Act of 1940, Pub. L. 811, 76th Congress, as amended (31 U.S.C. 203, 41 U.S.C. 15), the proceeds of any claim to a bank, trust company, Federal lending agency, or other recognized financing institution: *Provided*, that such assignment shall be recognized only if and when the assignee thereof files written notice of the assignment with the authorized representative of USDA who approved the application, together with a true copy of the instrument of assignment, in accordance with the instructions on Form CSS-66 or ASCS-66 "Notice of Assignment", which form must be used in giving notice of assignment to USDA. The "Instrument of Assignment" may be executed on Form CSS-347 or ASCS-36, or the assignee may use his own form of assignment. The forms may be obtained from the State ASCS Office or the Washington office shown in § 80.50.

§ 80.69 Officials not to benefit.

No member of or delegate to Congress or Resident Commissioner shall be entitled to any share or part of any contract resulting from this program or to any benefits that may arise therefrom, but this provision shall not be considered to extend to such a contract if made with a corporation for its general benefit or to any such person acting in his capacity as a farmer.

§ 80.70 Amendment and termination.

This subpart may be amended or terminated at any time but the amendment or termination shall not be effective earlier than the date of filing with the Office of the Federal Register. No amendment or termination shall be applicable to any potatoes diverted before the effective time of such amendment or termination.

SUBCHAPTER F—NAVAL STORES

PART 160—REGULATIONS AND STANDARDS FOR NAVAL STORES

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AUTHORITY: Sec. 4, 42 Stat. 1436, sec. 205, 60 Stat. 1090; 7 U.S.C. 94, 1624.

SOURCE: 11 FR 14665, Dec. 27, 1946, as amended at 17 FR 221, Jan. 9, 1952; 20 FR 6433, Sept. 1, 1955, unless otherwise noted.

GENERAL

§ 160.1 Definitions of general terms.

The terms as defined in section 2 of the Naval Stores Act shall apply with equal force and effect when used in the provisions in this part. In addition, unless the context requires otherwise, the terms hereinafter set forth shall be defined respectively as follows:

(a) "Act": The Naval Stores Act of March 3, 1923 (42 Stat. 1435; 7 U.S.C. 91-99).

(b) "Department": The United States Department of Agriculture.

(c) "Administrator": The Administrator of the Agricultural Marketing Service of the Department, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) "Official inspector": Any person designated or licensed by the Secretary to sample, examine, analyze, classify or grade naval stores.

(e) "Licensed inspector": A person licensed by the Administrator upon recommendation of an accredited processor to act as an official inspector with respect to naval stores produced at an eligible processing plant of such processor.

(f) "Eligible processing plant": A plant which on examination by the Administrator has been found to be designed, operated, and staffed so as to permit proper samplings and inspections of the naval stores produced thereat, and where a substantial proportion of the output comes from oleoresin obtained from trees growing on land not owned or leased by the processor himself, or from oleoresin contained within felled trees or stumps removed from such land.

(g) "Accredited processor": Any person owning or having charge of or jurisdiction over the operation of an eligible processing plant, to whom a permit has been issued under these regulations to have inspections of naval stores made by a licensed inspector.

(h) "Interested person": Any person who is a party to a factual or prospective transaction in a specific lot of naval stores, whether as producer, seller, shipper, dealer, or purchaser thereof; or any person who in the opinion of the Administrator has sufficient and proper interest in the analysis, classification, grading, or sale of naval stores to merit the loan and use of duplicates of the United States Standards.

(i) "Dealer": Any person who sells or ships in commerce any naval stores produced by a person other than himself.

(j) "Cooperative agreement": A written agreement between the Department and any person specifying the conditions under which special inspection personnel may be designated and procedures established, not otherwise available under existing inspection programs, in order to make possible a continuous, day-by-day inspection of naval stores for such person, or to provide facilities for carrying out experimental studies on authentic naval stores related to the inspection and marketing thereof.

(k) "Standards": The official Naval Stores Standards of the United States for classification and grading of spirits of turpentine and rosin.

(l) "Analysis": Any examination by physical, chemical, or sensory methods.

(m) "Classification": Designation as to kind of spirits of turpentine or rosin.

(n) "Grading": Determination of the grade of turpentine or rosin by comparison with the standards.

(o) "Certificate": The official certificate issued under the provisions of the act and the provisions in this part to show the results of any examination, analysis, classification, or grading of naval stores by an official inspector.

(p) "Label": Any word, combination of words, coined or trade name, picturization of any natural scene or article, or any limitation thereof, applied to, superimposed upon, impressed into, or in any other manner attached to a container of naval stores or other article coming within the scope of the act, by which the nature, kind, quality, or quantity of the contents of such container may be indicated.

(q) "Container": Any receptacle in which naval stores are placed for inspection or distribution in commerce; includes barrel, drum, tank, tank car, bag, bottle, can, or other receptacle.

[11 FR 14665, Dec. 27, 1946, as amended at 17 FR 221, Jan. 9, 1952; 20 FR 6433, Sept. 1, 1955; 46 FR 47055, Sept. 24, 1981; 47 FR 3344, Jan. 25, 1982]

§ 160.2 Spirits of turpentine defined.

Spirits of turpentine, also commonly known as turpentine, is the colorless or faintly colored volatile oil consisting principally of terpene hydrocarbons of the general empirical formula $C_{10}H_{16}$ and having a characteristic odor and taste. It occurs naturally in and may be recovered by distillation from the oleoresinous secretions obtained from living trees of the family *Pinaceae*, or present in the cellular structure, or wood, of species thereof.

§ 160.3 Rosin defined.

Except as provided in § 160.15, rosin is the vitreous, well-strained, transparent, solid resin which (a) remains after the volatile terpene oils are distilled from (1) the oleoresin collected from living trees or (2) the oleoresin extracted from wood; or (b) remains after distillation of the fatty acids from tall oil recovered from wood in the course of its chemical disintegration to produce cellulose. In addition to the free resin acids, rosin may contain relatively small proportions of fatty acids, resin esters and other esters, unsaponifiable resenes, and non-resinous foreign matter naturally occurring therein.

§ 160.4 Reclaimed rosin.

Reclaimed rosin is rosin that has been recovered or reclaimed by any means from waste or deteriorated material: *Provided*, That such reclaimed product may be graded as rosin under the act and the provisions in this part only if the concentration of rosin acids therein has not been reduced below the concentration normal for rosin, and any residual or contaminating component remaining from the waste material itself or from any article used in the recovery process is not sufficient to cause the physical or chemical properties of the reclaimed product to differ substantially from the normal properties of rosin.

§ 160.5 Standards for naval stores.

In addition to the standards of identity for spirits of turpentine and rosin and the grade designations for rosin specified in the act, certain standards for naval stores have been promulgated by the Administrator pursuant to the act as indicated in § 160.301 et seq.

§ 160.6 Standard designations for turpentine.

Spirits of turpentine within the meaning of the act and the provisions in this part shall be designated as "gum spirits of turpentine," "steam distilled wood turpentine," "destructively distilled wood turpentine," or "sulphate wood turpentine," as the case may be.

§ 160.7 Gum spirits of turpentine.

The designation "gum spirits of turpentine" shall refer to the kind of spirits of turpentine obtained by distillation of the oleoresin (gum) from living trees, and commonly known prior to the passage of the act as gum spirits, gum turpentine, spirits of turpentine, or oil of turpentine.

§ 160.8 Steam distilled wood turpentine.

The designation "steam distilled wood turpentine" shall refer to the kind of spirits of turpentine obtained by steam distillation from the oleoresinous component of wood whether in the presence of the wood or after extraction from the wood, and commonly known prior to the passage of the act as wood turpentine, steam distilled turpentine, steam distilled wood turpentine, or S. D. wood turpentine.

§ 160.9 Destructively distilled wood turpentine.

The designation "destructively distilled wood turpentine" shall refer to the kind of spirits of turpentine prepared from the distillate obtained in the destructive distillation (carbonization) of wood, and commonly known prior to the passage of the act as destructively distilled wood turpentine or D.D. wood turpentine.

§ 160.10 Sulphate wood turpentine.

The designation "sulphate wood turpentine" shall refer to the kind of spirits of turpentine prepared from the condensates that are recovered in the sulphate process of cooking wood pulp, and commonly known as sulphate turpentine or sulphate wood turpentine.

§ 160.11 Quality requirements.

The several standards for spirits of turpentine, as defined in §§ 160.8 to 160.10, inclusive, shall be deemed to mean the respective kinds of spirits of turpentine having properties that conform with the standard specifications adopted therefor by the American Society for Testing Materials, contained in Appendix A to this part.

§ 160.12 Standard designations for rosin.

(a) Rosin within the meaning of the act and the provisions in this part shall be designated as "gum rosin," "wood rosin," or "tall oil rosin," as the case may be.

(b) The designation "gum rosin" shall refer to the kind of rosin remaining after the distillation of gum spirits of turpentine from the oleoresin (gum) obtained from living pine trees.

(c) The designation "wood rosin" shall refer to the kind of rosin recovered after the distillation of the volatile oil from the oleoresin within or extracted from pine wood by any suitable process, followed by any necessary further refinement.

(d) The designation "tall oil rosin" shall refer to the kind of rosin remaining after the removal of the fatty acids from tall oil by fractional distillation, and having the characteristic form and appearance and other physical and chemical properties normal for other kinds of rosin.

§ 160.13 Grade designations for rosin.

The grades of rosin shall be designated, from highest to lowest, by the following letters, respectively: XC, XB, XA, X, WW, WG, N, M, K, I, H, G, F, E, D, B. In addition, the letters OP shall be used to designate the grade of opaque rosin, and the letters FF shall be used to designate the grade of normal wood rosin: *Provided*, That the product recovered in the refining of wood rosin, that is darker in color than the standard for FF grade, and that contains rosin acids in lesser quantity than is normal for such rosin, shall be graded and designated as B wood resin.

[11 FR 14665, Dec. 27, 1946, as amended at 17 FR 221, Jan. 9, 1952; 33 FR 8722, June 14, 1968]

§ 160.14 Opaque rosin.

The term "opaque rosin" shall apply to the article resulting when rosin undergoes internal modification indicated by a turbid, clouded, or opaque appearance, that is, loss of transparency, brought about by the occlusion of moisture or the formation of an excessive quantity of resin acid crystals in the rosin.

ESTABLISHMENT OF NEW AND MODIFIED STANDARDS

§ 160.15 New standards.

Whenever in the opinion of the Administrator a new standard for any naval stores is necessary in the interest of the trade, he shall announce a hearing thereon, to be held not less than 3 months subsequent to such announcement. Notice of the hearing stating the terms or description of the proposed new standard, or a summary thereof, shall be given by publication in the FEDERAL REGISTER and by such other means as may be practicable. The hearing shall be conducted by an official designated by the Administrator, and reasonable opportunity shall be afforded at the hearing to all interested persons to present their views, arguments and data, verbally or in writing, in favor of or in opposition to the proposed new standard. All relevant material presented at said hearing, or a summary thereof, and a recommendation as to adoption or rejection of the proposed new standard shall be transmitted to the Administrator for his consideration. A new standard established and promulgated by the Administrator shall become effective not less than 3 months after the promulgation thereof.

§ 160.16 Modification of existing standards.

Whenever in the opinion of the Administrator a modification of an existing standard for naval stores is necessary in the interest of the trade, he shall announce a hearing thereon, to be held not less than 6 months subsequent to such announcement. Notice of the hearing stating the terms or description of the proposed modification of any standard, or a summary thereof, shall be given by publication in the FEDERAL REGISTER and by such other means as may be practicable. The hearing shall be conducted by an official designated by the Administrator, and reasonable opportunity shall be afforded to all interested persons to present their views, arguments and data, verbally or in writing, in favor of or in opposition to the proposed modification. All relevant material presented at said hearing, or a summary thereof, and a recommendation as to adoption or rejection of the proposed modification shall be transmitted to the Administrator for his consideration. A modified standard established and promulgated by the Administrator shall become effective not less than 6 months after the promulgation thereof.

METHODS OF ANALYSIS, INSPECTION, SAMPLING AND GRADING

§ 160.17 Laboratory analysis.

The analysis and laboratory testing of naval stores shall be conducted, so far as is practicable, according to methods of the American Society for Testing Materials. When any such method is deemed to be insufficient or unsuitable or when no method has been so presented, the analysis shall be made according to any method deemed appropriate by the Administrator.

§ 160.18 Determining the grade of rosin.

The grade of rosin shall be determined by comparing a representative sample, taken and prepared in accordance with the provisions in this part, with the appropriate standard types. The grade shall be the grade designation of the standard type which the sample equals or excels in color, but below the next higher grade.

§ 160.19 Samples of rosin for grading.

Samples of rosin for grading shall be approximately cubical in shape, and shall be seven-eighths inch thick in the direction through which they are viewed or graded. Samples may be taken by any of the following methods:

(a) By cutting or cleaving the same from a lump of the rosin removed from the solid mass in the barrel or drum, the top side of which lump shall come from not less than 4 inches below the surface of the rosin.

(b) By placing a tin mold of suitable design inside the barrel or drum through an opening in the side, the center of which opening is approximately 9 inches from the top or 12 inches from the bottom so that when the container is filled, the rosin within the mold will have come from a position not less than 4 inches below the surface of the rosin. The mold thus placed must be entirely within the barrel or drum and completely encased in the rosin.

(c) By suspending in the barrel or drum of molten rosin a clean tinplate mold, ⅞ inch square (inside) and 1½ inches or more in length, in such a manner that it will be in a horizontal position at least 2 inches below the surface of the rosin after it has thoroughly cooled. Such sample shall not be spiked from the barrel or drum until it is completely cooled.

(d) By withdrawing a quantity of molten rosin from a full container of 150 pounds content or less, pouring the rosin into a suitable mold, and allowing it to cool and solidify slowly: *Provided*, That samples taken to represent a single batch or charge made by intermittent distillation of oleoresin shall be taken from not less than two containers, one of which shall be selected when one fourth of the batch has been placed in the containers, and the other shall be from the last container filled.

(e) By withdrawing a quantity of molten rosin from a full drum that has been filled after a preliminary cooling period, pouring the rosin into a suitable mold, and allowing it to cool and solidify slowly: *Provided*, That such sample shall not be taken until at least one hour has elapsed after the drum was filled: *And provided further*, That the selection of drums to be sampled shall be in accordance with the method of selecting small containers as set forth in paragraph (d) of this section. Rosin in drums sampled in this manner will be graded and certified only when the sampling is performed by an official inspector. Rosin in open head barrels shall not be sampled by this method.

(f) By collecting in a suitable vessel a quantity of molten rosin from each successive batch or charge as it is delivered into a tank car, pouring the respective quantities of rosin into suitable molds, and allowing them to cool and solidify: *Provided*, That any darkening of the rosin subsequent to such sampling will not be recognized as affecting the correctness of the grades assigned to the rosin at the time it was loaded in the car. Rosin so sampled while in process of being placed in a tank car will be graded and certified only when the sampling is performed by an official inspector.

§ 160.20 More than one grade in a container.

When a sample from the bottom of a barrel or drum shows not more than one grade lower than that of a top sample taken in accordance with § 160.19, the grade of the rosin shall be that of such top sample: *Provided*, That if such "bottom head" sample shows more than one grade lower than the top sample, the grade assigned to the rosin shall be that of the darkest or lowest grade of rosin in the container.

§ 160.21 Rosin not fit for grading.

An article consisting of rosin with an excessive amount of trash or other visible extraneous foreign material, or an article that is of such color or appearance as not to permit its accurate classification and grading in accordance with the standards provided for rosin, shall not be classified, graded, marked, sold, or offered for sale in commerce as rosin.

§ 160.22 Collecting samples; issuing certificates.

The collection of official samples for the purpose of putting into effect any of the provisions of the act, and the issuance of certificates reporting the results of any analysis, classification, or grading shall be limited to official inspectors and to such other personnel of the Department as may be authorized.

§ 160.23 Disposition of samples.

All samples taken by an official inspector or submitted by an interested person shall become and remain the property of the Department, to be disposed of as the Administrator may determine.

ANALYSIS, INSPECTION, AND GRADING ON REQUEST

§ 160.24 Inspection on request.

Insofar as it may be practicable, official inspectors shall sample, analyze, classify, or grade any naval stores at the request of any interested person, as provided for by the act and in accordance with the provisions in this part.

§ 160.24a Inspection as to condition of drums containing rosin and the quality and condition of the rosin therein upon request.

Before or after the shipment in commerce of any lot of rosin in drums from a processing or storage point, and upon request by an interested person, an inspection may be made by an official inspector of the external appearance of the drums, and a report may be made by such inspector, on the basis of such inspection, of the condition, including soundness, of the drums with reference to the effect thereof upon the quality, and preservation of the quality, of the rosin in the drums. In conjunction with such service, when practicable, the inspector may upon similar request determine and certify the grade, class, other quality, or condition of the rosin within the drums, and report the internal condition of the drums, under any applicable standards and procedural instructions issued to such inspector by the Administrator. Certificates and reports issued under this section will be furnished only to the interested person requesting the service. Fees and charges for service under this section shall be paid by such interested person in accordance with §§ 160.201, 160.202, and 160.204.

[20 FR 6433, Sept. 1, 1955]

§ 160.25 How requests shall be made.

An interested person desiring the analysis, classification, or grading of any naval stores, or of samples thereof, shall submit to the nearest official inspector a written request, in which he shall state the number and kind of containers of rosin, or the number and kind of containers and the number of gallons of turpentine, as the case may be, together with the name of the interested person for whose account such service is requested, his interest in the naval stores, and other information by which the identity of the naval stores in question and the propriety of its examination may be determined. Requests for seasonal or recurrent services shall so indicate, and the approximate quantity of naval stores to be graded and the duration of the desired service shall be stated. Fees for such service shall be paid in accordance with the provisions in this part.

§ 160.26 Withdrawal of request.

A request for service under the provisions in this part may be withdrawn at any time before the service has been completed, on notice to the official inspector: *Provided, however,* That the interested person shall reimburse the United States for the time spent and any expenses incurred prior to receipt of such withdrawal notice.

§ 160.27 Containers to be made ready.

The interested person shall cause the naval stores to be made available, and shall provide any held required to remove the bungs or heads, or otherwise open the containers for sampling, to spike the rosin or extract the sampler devices from the barrels or drums, to rebung or otherwise close the containers, to handle the commodity for weighing, and to mark the containers at the direction of the official inspector.

§ 160.28 Tank cars of turpentine.

A tank car loaded for shipment with spirits of turpentine shall, after the same has been sampled for analysis, classification, and certification, be sealed by the official inspector. Any certificate issued thereon prior to shipment shall be valid only for a reasonable time to permit arrival at destination, and only so long as the seals placed thereon by the inspector remain unbroken.

§ 160.29 Containers to remain intact.

The results of any analysis, classification, or grading of naval stores will be certifiable only if the containers holding such naval stores remain intact as sampled until the analysis, classification, or grading has been completed and the results reported, except when the container is a tank car subject to demurrage.

§ 160.30 Contents of containers to be designated.

Prior to inspection at the request of the producer, containers of naval stores, other than tank cars, shall have marked thereon a designation by such producer of the kind or identity of the product in accordance with the standard of identity provided therefor by or under the act.

§ 160.31 Time and manner of sampling.

Except when batch sampling is authorized at an eligible processing plant using licensed inspectors, samples of naval stores to be used for official inspection and certification shall be taken direct from the commercial containers holding such naval stores by or under the immediate supervision of the inspector at the time of inspection.

§ 160.32 Marking containers.

The interested person shall provide any labor necessary for marking the containers, after the contents have been sampled and graded, at the direction of the official inspector. The container of an article which does not conform with any United States Standard for naval stores as to kind or grade, shall not be marked or certified, and any unauthorized marks appearing on the container shall be removed.

§ 160.33 Containers not acceptable for inspection.

Any container so filled or packed as to conceal the fact that it contains anything other than naval stores within the meaning of the act or the provisions in this part, and any naval stores in a container deemed by an official inspector to be unsuitable for use as a container of naval stores in commerce, shall not be accepted for classification or grading.

§ 160.34 Responsibility of interested person.

The sampling or acceptance of any sample of naval stores by an official inspector for use in grading and certifying the same at the request of an interested person, or the placing of any incorrect classification or grade marks upon the container thereof, or the issue of any incorrect certificate inadvertently to cover the contents, because of inability of the inspector to observe the true condition of the naval stores, shall not prevent the correction or recall of any such certificate, nor relieve the interested person from responsibility for the condition of the article or its container.

§ 160.35 Illegible inspection marks.

In case any mark placed on a container of rosin by or under the direction of an official inspector has become illegible, he will make such examination before remarking as may be necessary to establish the proper grade or identity of the rosin. No fee will be charged for this service, but the cost of handling, opening, spiking, and closing the container shall be borne by the interested person.

§ 160.36 Authority for changing marks.

No mark placed upon any container of naval stores by or at the direction of an official inspector shall be obliterated, covered up, defaced, or otherwise made illegible, except under authority of an official inspector.

§ 160.37 Prior marks to be removed.

Any marking appearing on a container to be used for naval stores, relating to the kind, classification, grade, certification, or method of inspection of naval stores shall be removed by the user whenever such marking does not in all respects describe the kind, classification, grade, certification, and method of inspection of the naval stores to be placed therein.

REQUEST INSPECTION BY LICENSED INSPECTORS

§ 160.38 Permit to use licensed inspector.

Any naval stores produced at an eligible processing plant, as herein defined, may be inspected, classified, graded, and certified by a licensed inspector, after the accredited processor has applied to and has been granted a permit by the Administrator to use a licensed inspector.

§ 160.39 Form of application for license or permit.

Applications for licenses to inspect and permits to have inspections made by licensed inspectors shall be made to the Administrator upon forms provided for the purposes. Each such application shall fully and truly state the information therein required and shall be signed by the applicant.

§ 160.40 Applicant for license to be examined.

Each applicant for a license shall be required to demonstrate his qualifications and competency to perform the duties of an official inspector at such time and place and in such manner as may be determined by the Administrator.

§ 160.41 Issuance of temporary license.

In a case of special urgency, and in the discretion of the Administrator, a temporary license may be issued without reference to § 160.40 upon presentation of satisfactory evidence by the accredited processor of the need therefor and the competency of the applicant for such temporary license. Such processor shall receive prompt notice of the issuance of any such temporary license. A temporary licensee shall be subject to all the provisions in this part. A temporary license shall be valid for a specified period not to exceed 30 days, except that if application is made for a permanent license by a person at the same time he applies for a temporary license, any temporary license issued to him shall not expire until a permanent license has been denied or granted.

§ 160.42 Limitation of license.

The license issued by the Administrator to a licensed inspector of naval stores shall state the name of the processing plant or plants at which the licensee may perform the duties of an official inspector, and shall be countersigned by such official as may be designated and authorized.

§ 160.43 Licensed inspector to be disinterested.

No person who determines or controls sales policies or methods of distribution of an eligible processing plant, or the selling prices of the naval stores processed at such plant, shall be licensed as an inspector.

§ 160.44 Other duties of licensed inspectors.

A licensed inspector may perform duties other than those of an official inspector, to the extent indicated by the accredited processor and not disapproved in writing by the Administrator: *Provided*, That such additional duties not pertaining to the official inspection work shall not be permitted to interfere with the proper performance of the duties of the licensee as an official inspector.

§ 160.45 Conditions governing licensed inspection.

The work performed by licensed inspectors under the provisions in this part shall be supervised and reviewed by authorized representatives of the Administrator, who shall issue to such licensed inspectors instructions for taking, preserving, and identifying samples; marking and maintaining the identity of containers when filled; preparing, issuing, and disposing of certificates; the keeping of adequate inspection records; and such other procedures as may be necessary in carrying out the licensed inspection. The handling, sampling, grading, marking, and certification of naval stores at an eligible processing plant by a licensed inspector shall be conducted in accordance with such instructions and the provisions in this part.

§ 160.46 Identification of containers.

Containers packed with naval stores which have been inspected, classified, graded, and certified by a licensed inspector at an eligible processing plant shall be marked to show the name and location or other acceptable identification of the plant, and the legend "U.S. Graded" or "U.S. Inspected", and, in the case of rosin, the batch number indicating the date of production.

§ 160.47 Periodic re-inspection.

Any eligible processing plant may from time to time be re-inspected and any rosin produced by such plant may be graded or re-graded by any official inspector authorized to make such examinations. The results of such examinations shall be made known only to the affected processor, the licensed inspector, and to such employees of the Department officially authorized to receive such information.

§ 160.48 Form of certificate.

The certificates issued under this part by licensed inspectors shall be on forms approved by the Administrator.

§ 160.49 Responsibility for inspection certificates and forms.

Certificate forms and other inspection record forms may be issued to an accredited processor, and the said processor shall be responsible for and accountable to the Department for all such material supplied to him. He shall require the licensed inspector to submit or otherwise make disposition of issued certificates in accordance with instructions received from the Administrator.

§ 160.50 Reports to be made by accredited processors.

Each accredited processor shall furnish the Administrator such reports and other information relative to the operation and output of his eligible processing plant as the Administrator may deem necessary or appropriate for the administration of the provisions in this part applicable to licensed inspection, subject to the approval of the Bureau of the Budget. Failure by an accredited processor to keep such records as may be necessary for him to submit correct reports, or failure by the processor to supply correct information to the Administrator shall be deemed a violation of the provisions in this part, and cause for suspension or revocation of his inspection permit.

§ 160.51 Report of non-conformance.

Each licensed inspector shall promptly report to his supervising inspector and to the accredited processor, any evidence of which he has knowledge indicating non-conformance with the provisions in this part, and shall also so report any attempt or effort to influence him to sample, grade, or certify any naval stores incorrectly or contrary to the provisions in this part.

§ 160.52 Suspension or revocation of licenses.

(a) Any license to inspect, grade, and certify naval stores may be suspended or revoked for repeated failure by the licensee correctly to inspect, grade, classify, or certify naval stores, or upon the persistence of any condition which renders him unfit to perform the duties of a licensed inspector, or for other continued non-conformance with any provision of the act or the provisions in this part. A license may be suspended for similar failures, conditions or non-conformance of shorter duration or less serious nature.

(b) A license to inspect, grade and certify naval stores may be summarily suspended or revoked by any official authorized to issue or countersign such licenses where the public health, interest, or safety so requires or for willful acts or omissions by the licensee which constitute grounds for suspension or revocation of his license under paragraph (a) of this section. In all other cases, prior to the institution of proceedings for the suspension or revocation of a license, such authorized official shall cause to be served upon the licensee, in person or by registered mail, a statement of the facts which appear to warrant such suspension or revocation, specifying a reasonable time, depending upon the circumstances in each case, within which the licensee may demonstrate or achieve compliance with the act, and the provisions in this part. The licensee may demonstrate compliance by the presentation of evidence in writing or, in the discretion of such authorized official, at an oral hearing. If, at the end of the time allowed for the licensee to demonstrate or achieve compliance, such authorized official finds he is in compliance, his license shall not be suspended or revoked. If such authorized official finds the licensee is not in compliance, the license may be suspended or revoked after service upon the licensee, in person or by registered mail, of a notice that such action is under consideration for reasons specified in the statement of facts previously served upon him and after reasonable opportunity is given the licensee to present further evidence in his behalf. Within 7 days after receipt of notice of the suspension or revocation of his license, the inspector by letter may appeal to the Administrator for its reinstatement and may attach to such letter any evidence he may wish to submit.

§ 160.53 Stopping inspection by suspended inspector.

An accredited processor upon receipt of notice of the suspension or revocation of a license shall discontinue the use of the licensee as an official inspector, and the marking of his products to indicate official inspection, until the suspension is lifted, or another inspector is licensed or assigned.

§ 160.54 Suspension or revocation of permits.

(a) Any permit issued to an accredited processor to have naval stores inspected, graded, and certified by a licensed inspector may be suspended or revoked for the failure of the processor, after official notice, to correct any condition which renders his plant unqualified for licensed inspection service, or for repeated or continued nonconformance with any other provision of the act or the provisions in this part. A permit may be suspended for similar non-conformance or failure of shorter duration or less serious nature.

(b) A permit for licensed inspection may be summarily suspended or revoked by any official authorized to issue or countersign such permits where the public health, interest, or safety so requires or for willful acts or omissions by the permittee which constitute grounds for suspension or revocation of his permit under paragraph (a) of this section. In all other cases, prior to the institution of proceedings for the suspension or revocation of a permit, such authorized official shall cause to be served upon the permittee, in person or by registered mail, a statement of the facts which appear to warrant such suspension or revocation, specifying a reasonable time, depending upon the circumstances in each case, within which the permittee may demonstrate or achieve compliance with the act and the provisions in this part. The permittee may demonstrate compliance by the presentation of evidence in writing or, in the discretion of such authorized official, at an oral hearing. If, at the end of the time allowed for the permittee to demonstrate or achieve compliance, such authorized official finds he is in compliance, his permit shall not be suspended or revoked. If such authorized official finds the permittee is not in compliance, the permit may be suspended or revoked after service upon the permittee, in person or by registered mail, of a notice that such action is under consideration for reasons specified in the statement of facts previously served upon him after reasonable opportunity is given the permittee to present further evidence in his behalf. Within 7 days after receipt of notice of the suspension or revocation of his permit, the processor by letter may appeal to the Administrator for its reinstatement, and may attach to such letter any evidence he may wish to submit.

§ 160.55 Voluntary discontinuance of licensed inspection.

An accredited processor desiring to discontinue the use of licensed inspectors for making official inspections, gradings, and certifications of naval stores, shall give not less than 30 days notice in writing to the Administrator of the intention to discontinue such service. At the termination of the service such processor shall surrender to the authorized representative of the Administrator the permit for licensed inspection, together with all unused certificates, forms, or other supplies and equipment furnished by the Department and held by the processor for the use of his licensed inspectors, other than standards or such other material as may be covered by a separate loan application or agreement.

§ 160.56 Compensation of licensed inspectors.

Each licensed inspector shall be paid directly by the accredited processor for his services as an official inspector and for such other services or duties to which he may be assigned in accordance with § 160.44: *Provided*, That whenever the Administrator shall deem it to be in the best interest of the Federal inspection service, he may require such processor to report to him the terms and amounts of compensation paid to a licensed inspector during any specified period.

§ 160.57 Fees for licensed inspection permits.

Each accredited processor shall pay to the Department annually such permit fee for each eligible processing plant for which a permit has been issued, as may be prescribed by the Administrator.

§ 160.58 Fees for inspection and certification by licensed inspectors.

Each accredited processor for whom naval stores have been inspected and certified hereunder by a licensed inspector during any calendar month shall on receipt of invoice pay to the Department the fee for each container of naval stores so inspected and certified as may be prescribed by the Administrator.

§ 160.59 Appeal inspections.

Any inspection certificate issued by a licensed inspector may be appealed in writing to the Administrator, such appeal to state the circumstances, the certificate number, and the quantity and certified grade of the naval stores covered thereby. A prompt regrade inspection shall be made by an official inspector other than the original inspector.

§ 160.60 Charge for appeal inspection.

If the findings in an appeal inspection confirm the original inspection, the accredited processor shall pay for such reinspection in accordance with the fees established for original inspections made by inspectors who are paid employees of the Department. If the findings do not confirm the original inspection, a corrected certificate will be issued and no charge will be made for re-inspection.

CERTIFICATES AND REPORTS

§ 160.61 Kinds of certificates issued.

A certificate as provided for by section 4 of the act shall be issued to the interested person in duplicate covering naval stores examined at his request, and additional copies, if desired, may be obtained from the inspector. The kind of certificates issued are as follows:

(a) Turpentine analysis and classification certificate.

(b) Turpentine field classification certificate.

(c) Rosin classification and grade certificate.

(d) Rosin grade and weight certificate.

(e) Loan and sale certificate for United States graded rosin.

(f) Classification and grade certificate for rosin in small containers.

§ 160.62 When a certificate may be issued.

A certificate showing the results of any analysis, classification, or grading shall be issued on any naval stores which conform with a United States Standard as to kind and grade and which have been sampled by or under the direction and supervision of an official inspector in accordance with the provisions in this part. The certificate shall be valid only so long as the naval stores described therein shall remain under seal or in the identical condition obtaining at the time of their examination.

§ 160.63 When a certificate may not be issued.

No certificate shall be issued for naval stores unless the naval stores have been packed, sampled, marked, and identified as required by the provisions in this part, and otherwise conform with the act and such provisions. The results of the examination of such naval stores or anything offered as such may be covered by a written report, which in no case shall be construed as a certificate.

§ 160.64 Issuance of loan and sale certificate.

On request of the owner, a "Loan and Sale Certificate for United States Graded Rosin" (designated "L. S. Certificate" in this part) may be issued to cover any rosin for which a Rosin Classification and Grade Certificate has previously been issued by an official inspector, and which remains in the original container. No inspector shall issue and L. S. Certificate until he has made certain that the rosin had previously been officially inspected and certified. The request for such certificate may be made to the nearest inspector.

§ 160.65 Prior certification required.

If an L. S. Certificate is desired for a quantity of rosin, a part of which has not been previously classified and graded by an official inspector and covered by a certificate, such part shall be so inspected, classified, graded, marked, and certified, as provided by the provisions in this part.

FEES AND CHARGES FOR SERVICES RENDERED

§ 160.66 Fees for inspection services.

The Administrator shall from time to time establish fees and charges for examination, sampling, classification, grading, analysis and certification of naval stores as he may deem fair and reasonable, and commensurate with the cost of the service rendered. Such fees and charges may be announced to the trade in such manner as the Administrator considers practicable.

§ 160.67 Fees under cooperative agreements.

Fees and charges for any inspection and grading service covered by the terms of any cooperative agreement with any interested person may be established by and incorporated into such agreement.

§ 160.68 Collection of fees.

Beginning October 1, 1981, all fees and charges assessed to interested parties for services rendered under the Naval Stores Act shall be collected by the Director, Tobacco Division, Agricultural Marketing Service, to cover insofar as practicable, all costs of providing such services. Such fees shall be credited to the Division in accordance with fiscal regulations of the Department.

[47 FR 3345, Jan. 25, 1982]

§ 160.69 Expenses to be borne by person requesting service.

All expenses incurred by the United States in connection with the sampling, analysis, classification, or grading of naval stores on request, not otherwise provided for by suitable regulation, shall be borne by the person making the request.

[11 FR 14665, Dec. 27, 1946, as amended at 17 FR 221, Jan. 9, 1952; 20 FR 6433, Sept. 1, 1955. Redesignated at 46 FR 47055, Sept. 24, 1981, and amended at 47 FR 3345, Jan. 25, 1982]

§ 160.70 Rendition of claims.

As soon as practicable after the end of each month, or sooner if deemed advisable, there shall be mailed to each interested person at whose request any services have been performed, a claim for payment of moneys due the United States for the services rendered or for the loan or repair of any standards.

[11 FR 14665, Dec. 27, 1946, as amended at 17 FR 221, Jan. 9, 1952; 20 FR 6433, Sept. 1, 1955. Redesignated at 46 FR 47055, Sept. 24, 1981, and amended at 47 FR 3345, Jan. 25, 1982]

§ 160.71 Delinquent claims.

Any claim remaining unpaid after 30 days from the date of its rendition shall be considered as delinquent, and notice thereof shall be brought to the attention of the interested person. After a claim becomes delinquent, the Administrator shall suspend or deny inspection and related services to any interested party who has failed to make timely payment of the fees and charges assessed, as well as any claims which have been rendered, and shall take such action as may be necessary to collect any amounts due. A deposit in advance sufficient to cover the fees and expenses for any subsequent service may be required of any person failing to pay his claim after issuance of such notice of delinquency.

[11 FR 14665, Dec. 27, 1946, as amended at 17 FR 221, Jan. 9, 1952; 20 FR 6433, Sept. 1, 1955. Redesignated and amended at 46 FR 47055, Sept. 24, 1981; 47 FR 3345, Jan. 25, 1982]

LOAN AND CARE OF UNITED STATES STANDARDS

§ 160.73 Availability of standards.

(a) *Standards available on loan.* Duplicates of the United States Standards provided by the Department for classifying and grading rosin in commerce, shall remain the property of the Department, and may be loaned, but not sold, to such interested persons as may be approved by the Administrator. Any interested person desiring the loan of duplicates of the United States Standards for rosin shall submit to the Administrator a form application, properly signed, which will show his interest in naval stores and his eligibility to receive and use such duplicates, in accordance with the provisions in this part. Standards so loaned shall be returned promptly on request.

(b) *Standards available for purchase.* Duplicate cubes for rosin standard grades XA, XB, and XC are not available from the Department but may be obtained commercially.

[11 FR 14665, Dec. 27, 1946, as amended at 17 FR 221, Jan. 9, 1952; 20 FR 6433, Sept. 1, 1955; 33 FR 8722, June 14, 1968]

§ 160.74 Loan of standards without security.

Duplicates of the United States Standards for rosin may be loaned without deposit of security, insofar as the supply in the possession of the Department will permit, to:

(a) Any State, County, or Municipal official duly authorized to inspect and grade rosin, who is actually engaged in inspection and grading work, and who shall have been approved by the Administrator to act as custodian of such standards.

(b) Any bona fide dealer or distributor of rosin who shall have been approved by the Administrator to act as depositary for such standards, and who shall maintain and operate a regular naval stores yard which is available to and is regularly used by other persons for the purpose of having rosin inspected, graded, stored, or sold thereon: *Provided, however,* That a person whose principal use of such standards is the grading of rosin of his own production shall not be deemed to come within the scope of this paragraph, but shall be required to post the security provided for in § 160.75: *And provided, further,* That no person shall receive more than two sets of duplicates under this paragraph.

(c) Any trade organization or institution of higher learning having a direct relationship to the production or marketing of naval stores other than by reason of the private interests or operations of its individual members, when in the opinion of the Administrator such standards are necessary to the normal functioning of the organization or institution.

§ 160.75 Loan of standards under security deposit.

Duplicates of the United States Standards for rosin may be loaned to interested persons other than those specified in § 160.74, on deposit with the Department of security in the sum of $100, by remittance payable to the Treasurer of the United States.

§ 160.76 Annual charge for use of standards.

The cost of providing duplicates of the United States Standards for rosin, and of maintaining such duplicates in accurate and proper condition for use in grading rosin, and of keeping necessary records thereof, shall be borne by the interested persons to whom the duplicates have been issued under § 160.74 (a) or (b) or § 160.75, and shall be defrayed by an annual charge of $20.00 for each set of duplicates, payable at the end of each Government fiscal year, or on surrender of the duplicates, computed pro-rata for the number of quarters of the fiscal year during which the duplicates were held: *Provided*, That when any set of standards issued on loan shall need servicing more often than once in any fiscal year, in order to maintain them in accurate condition for grading, and the need for such extra servicing is deemed by the Administrator to be the result of improper handling and use of the standards by the interested person or his agent, such person shall pay an additional amount of $30.00 for each such additional servicing, plus the cost of any parts or components of the standards replaced in such servicing, and any postage charges incurred by the Department in connection therewith.

[11 FR 14665, Dec. 27, 1946, as amended at 17 FR 221, Jan. 9, 1952; 20 FR 6433, Sept. 1, 1955; 46 FR 47055, Sept. 24, 1981; 47 FR 3345, Jan. 25, 1982]

§ 160.77 Reporting on use of standards.

Each person to whom any duplicates of the United States Standards for rosin have been loaned under any provision in this part shall, from time to time, submit such reports on the use and condition thereof as may be required by the Administrator.

§ 160.78 Loss or damage of standards.

In case any duplicates become damaged or are missing, the person to whom they were loaned shall promptly inform the Administrator in writing, stating what damage or loss was sustained and how the same occurred. The cost of making necessary repairs to any duplicates, or of replacing those damaged beyond repair, or missing, shall be paid promptly by the person to whom they were originally loaned.

§ 160.79 Request for additional standards.

Any person to whom any duplicates have been loaned without security deposit, who shall request and be granted the loan of additional duplicates to replace the original ones, shall be required to deposit the security provided for in § 160.75 prior to the loan of such additional duplicates. If the set of duplicates first loaned to such person, or any part thereof, is recovered, it shall be returned for inspection or repair. The cost of any repairs or replacements shall be paid, whereupon such original set may be returned to such person, and he shall surrender the second set, on receipt of which the security posted therefor shall be returned.

§ 160.80 Denial of loan of additional standards.

It shall be deemed impracticable under the act to loan additional duplicates to any person who has permitted duplicates previously loaned to him, with out without security, to become lost, damaged, or destroyed, if in the opinion of the Administrator, such loss, damage, or destruction resulted from any failure on the part of the interested person or his agent to take suitable precaution to prevent the loss, damage, or destruction, or when the available supply of duplicates is deemed insufficient to warrant the loan of additional duplicates to such person.

§ 160.81 Surrender of standards.

On the death of any person, or the dissolution or reorganization of any partnership, firm, or corporation, holding any duplicates of the United States Standards for rosin, they shall be promptly returned to the Administrator by the holder thereof.

§ 160.82 Return of security.

The security deposit received from any person to whom duplicates of the United States Standards for rosin have been loaned will be held in the special deposit account of the Department, and the same will be returned to the person from whom received, or his legal representative, on surrender of the duplicates secured thereby: *Provided*, That before refund is made the cost of any repairs or replacement shall be deducted.

§ 160.83 Miscellaneous receipts.

All moneys received or withheld to cover the cost of repairs, or of replacing any missing parts of duplicates, or as rental for duplicates, shall be paid into the United States Treasury as Miscellaneous Receipts.

SALES AND SHIPMENTS

§ 160.84 Identification of shipments.

The invoice or contract of sale of any naval stores in commerce shall identify and describe the article in accordance with the classification and the standard of kind and grade provided by the act or established by the Administrator.

§ 160.85 Sale of mixed turpentine not lawful.

Since no standard has been provided for a mixture of two or more kinds of spirits of turpentine, the sale in commerce of any such mixture is prohibited under any designation.

§ 160.86 Prohibited use of United States Standards.

It shall be deemed unlawful under any condition to sell, under or by reference to any United States Standard for naval stores, as provided by the act and defined in the regulations in this part, any article which fails to conform with such standard in all respects: *Provided*, That the phrase "under or by reference to United States Standards" as it appears in the act and the regulations in this part, shall include the use of any words, letters, brands, labels, or marks constituting any of the United States Standards for naval stores on any container of naval stores, on anything attached to or supplied therewith on delivery, or on any inspection, sale, or shipping record or invoice, in describing the kind, classification, or grade of the naval stores covered thereby.

§ 160.87 Prohibited use of word "turpentine" or derivatives thereof.

It shall be deemed unlawful to use in commerce the word "turpentine" or a compound, derivative or imitation thereof, or any word or combination of words which are a part of a United States Standard for any kind of spirits of turpentine, to describe in any manner a mixture of spirits of turpentine with any other oil or solvent.

§ 160.88 Permitted use of words "turpentine" and "rosin."

The use of the word "turpentine" or the word "rosin" is not prohibited in the name of an article made, prepared, or processed from spirits of turpentine or rosin, or to indicate the process whereby such article was made or prepared: *Provided*, That this section shall not apply to any article covered by § 160.87.

§ 160.89 Medicinal preparations.

A compound or mixture containing spirits of turpentine or rosin, or both, with other drugs, when sold for medicinal purposes, is not subject to the provisions of the Naval Stores Act or of the provisions in this part.

LABELING, ADVERTISING AND PACKING

§ 160.90 False, misleading, or deceitful practices.

No label or other means or practice used in connection with the sale of naval stores in commerce or of anything offered as such shall be false, misleading, or deceitful in any manner.

§ 160.91 Meaning of words "pine" and "pine tree."

The words "pine" or "pine tree," when used to designate the source of spirits of turpentine, shall be deemed to mean a living, growing plant of the genus *Pinus*, family Pinaceae, unless the words "wood of" are used in connection therewith. The terms "oleoresin of the southern pine" or "oleoresin from the southern pine" shall be deemed to mean the gum or oleoresin exuded by such living, growing trees, the source of gum spirits of turpentine.

§ 160.92 Meaning of word "gallon."

The word "gallon," when used on or impressed into any container of spirits of turpentine, or when used in an invoice referring to spirits of turpentine in containers of 10 gallons content or less, shall mean a United States standard gallon of 231 cubic inches of turpentine, regardless of any other definitive terms used therewith: *Provided*, That this shall not apply to the meaning of the words "imperial gallon", when placed on containers intended for foreign shipment. For the purpose of these regulations a measured gallon of turpentine, or any indicated multiple or fractional part thereof, shall be such quantity when measured at a temperature of not more than 75° Fahrenheit, and a weighed gallon shall be construed to mean 7.2 pounds of turpentine.

§ 160.93 Powdered rosin.

The classification and grade of any rosin sold in commerce in a powdered or finely broken condition shall be stated in the invoice or contract of sale in accordance with the kind and grade of the rosin before it was powdered or broken. For the purpose of preventing coalescence there may be incorporated in such article a limited and necessary quantity of inert, nonresinous foreign material: *Provided*, That the nature and quantity of such inert material shall be stated on the label.

§ 160.94 Spirits of turpentine for medicinal use.

Spirits of turpentine so packed, described, labeled, or sold as to indicate that it is offered as a medicament shall nevertheless be subject to the requirements of the Naval Stores Act and of the provisions in this part, as well as any requirements under any other statute.

PROCEEDINGS IN CASE OF VIOLATION

§ 160.95 Proceedings prior to reporting violations of the act.

Whenever it shall appear to the Administrator that any violation of the act should be reported to the United States Department of Justice for appropriate action, he shall serve notice in writing upon the person apparently responsible for the alleged violation and shall give such person an opportunity to show in duplicate to the Administrator within 20 days after the receipt of such notice why the alleged violation should not be reported to the Department of Justice. The person so notified may within the period stated apply for an opportunity to present his views in person, or by his attorney. If the Administrator deems the request appropriate he will designate a time and place for hearing the applicant.

§ 160.96 Report of violations for prosecution.

In the event of failure of the person notified of an apparent violation of the act to submit to the Administrator a written answer as provided in § 160.95, or if, after such person has filed his answer or in addition, been given an opportunity to present his views orally, no sufficient reason has been shown why the alleged violation should not be reported for prosecution, the General Counsel of the Department, acting for and on behalf of the Administrator, shall report the alleged violation to the Department of Justice for appropriate action.

§ 160.97 Publication.

Composite data regarding inspections, analyses, classifications, and grading of naval stores made under any provision of the act or the provisions in this part may be published from time to time in such mediums as the Administrator may designate for the purpose.

SPECIFIC FEES PAYABLE FOR SERVICES RENDERED

§ 160.201 Fees generally for field inspection and certification of naval stores and drum containers of rosin.

Except as provided in § 160.204, the following fees shall be paid to the United States for the field inspection and certification of naval stores and drum containers of rosin, not conducted under a cooperative agreement and where laboratory analysis or testing is not required:

(a) *Inspections by licensed inspectors at eligible processing plants.*

(1) Rosin (grading and incidental certification as to class, condition and weight).

(i) In drums (see Note 1) per drum—$1.24.

(ii) In 100 pound bags (see Note 1) per bag—$.23.

(iii) In tank cars, per car—$67.50.

(iv) In tank trucks, per truck—$34.00.

(2) Turpentine (Grading and incidental certification as to class, condition and volume).

(i) In 55 gallon drums, per drum—$2.25.

(ii) In tank cars or trucks, per unit of 100 gallons—$1.41.

(iii) In bulk for delivery to tank steamer, per unit of 100 gallons—$2.25.

(b) Inspections by regularly employed, salaried Federal inspectors.

(1) Rosin.

(i) Grading and weighing at concentration and storage yards, per drum—$4.05.

(ii) Irregular inspection and grading at distillation or processing plants, up to 400 drums, per drum—$3.60; all over 400 drums, per drum—$2.25.

(iii) Weighing at concentration and storage yards, subsequent to grading, per drum—$2.25.

(iv) Examination of the external or internal appearance and condition of filled rosin drums, and of the rosin contained therein—See Note 2 and § 160.204.

(v) Re-certification under L.S. Certificate of rosin moving in commerce, per drum—$.23.

(2) Turpentine (inspection and certification as to kind, condition, volume, etc.).

(i) In drums of 55 gallons, per drum—$3.38.

(ii) In tank cars or trucks, per unit of 100 gallons—$2.81.

(iii) For bulk delivery to tank steamer, per unit of 100 gallons—$2.25.

Note 1: When the number of drums and bags inspected and certified at any plant during any calendar month is equivalent to a total of 2,400 or more drums (counting five bags as equivalent to one drum), the fee shall be computed at the rate of $1.01 per drum and $.18 per bag certified. For quantities less than the equivalent of 2,400 drums, the fee shall be computed at the prescribed rate of $1.24 per drum and $.23 per bag.

Note 2: The inspection or related examination of containers of rosin and their contents under Section B(1)(iv) shall be performed only after the inspector or the Chief of the Marketing Programs Branch has been advised regarding the location, nature, scope, and purpose of the service desired, and the charge to be made therefore has been submitted to and accepted by the requesting person.

[47 FR 3345, Jan. 25, 1982]

§ 160.202 Fees generally for laboratory analysis and testing.

Except as provided in § 160.204, the following fees shall be paid to the United States for laboratory analysis and testing of naval stores, when not performed in the conduct of a cooperative agreement with respect to such products:

(a) *Rosin and turpentine.* (See Note 3).

(1) Comprehensive analysis to determine purity, specification compliance, or other chemical and physical properties related thereto:

(i) Single Sample—$40.00.

(ii) Two or more samples analyzed at same time per sample—$35.00.

(2) Limited testing to determine kind, grade, or other factors related to quality of utility.

(i) Single Sample:

(A) Rosin—$14.00.

(B) Turpentine—$10.00.

(ii) Two or more samples tested at same time:

(A) Rosin—per sample—$10.00.

(B) Turpentine—per sample—$8.00.

Note 3: The analysis and testing of rosin involves many different types of laboratory procedures, requiring variable time for performance, and including other cost factors. The charge for such analysis and testing will depend on the type and extent of the work required to supply the information desired by the interested person requesting the service. When it appears that the charges indicated in this section will not defray the costs of making the tests required, the interested person shall be informed before any work is performed and will be supplied with a cost estimate of the actual charges to be made. See also § 160.204.

[47 FR 3345, Jan. 25, 1982]

§ 160.203 Fees for inspection and certification of other naval stores material.

Whenever it shall be deemed practical and in the interest of the naval stores trade to sample, inspect, analyze and certify any naval stores material other than spirits of turpentine or rosin, at the request of an interested person, the fees for such inspection shall be the same as the fees prescribed for spirits of turpentine.

[17 FR 189, Jan. 8, 1952]

§ 160.204 Fees for extra cost and hourly rate service.

The fees specified in §§ 160.201 and 160.202 apply to the routine field inspection and usual laboratory work incident to the certification of commodities covered by those sections. Should additional work be required to provide special information desired by the person requesting service, or should it be necessary for an inspector to make a special trip or to deviate from his regular schedule of travel, or should the fees prescribed in §§ 160.201 and 160.202 otherwise be insufficient to defray the cost to the Government for rendering such service, then the person requesting the service shall pay, in lieu of the prescribed fees, an amount computed by the Department as sufficient to defray the total cost thereof, including allowances for time spent in collecting and preparing samples obtaining identification records, traveling, performing laboratory tests or other necessary work, and also any expense incurred for authorized transportation and subsistence of the inspector or analyst while in travel status. The charge for time so spent shall be computed at the rate of $17.80 per hour for laboratory and field inspection work. The overtime rate for services performed outside the inspector's regularly scheduled tour of duty shall be $21.30. The rate of $26.70 shall be charged for work performed on Sundays or holidays.

[47 FR 3345, Jan. 25, 1982]

§ 160.205 Permit fees for eligible processing plants under licensed inspection.

Initial permit fee—$20.00.

Annual renewal permit fee—$20.00.

NOTE: The renewal permit fee shall be reduced to $10 per year when the inspection fees paid by the eligible processing plant aggregate $200 or more during the preceding fiscal year ended September 30, and shall be waived when such fees aggregate $400 or more during such fiscal year. Such reduced permit fee shall apply only in case the eligible processing plant has made use of the licensed inspection service.

[47 FR 3346, Jan. 25, 1982]

STANDARDS

§ 160.301 Sulphate wood turpentine.

Sulphate wood turpentine means wood turpentine obtained from wood by the sulphate process. (From promulgation of December 20, 1928, effective March 20, 1929.)

[17 FR 224, Jan. 9, 1952]

§ 160.302 Rosin grades generally.

The official naval stores standards of the United States for grades of rosin, other than opaque rosin and FF rosin, as modified by the Secretary, consist of the glass types on deposit with the Agricultural Marketing Service of the Department. (From promulgation of November 6, 1935, effective May 6, 1936.)

[17 FR 224, Jan. 9, 1952, as amended at 33 FR 8722, June 14, 1968; 37 FR 8059, Apr. 25, 1972]

§ 160.303 Opaque rosin.

Opaque rosin is rosin which, because of its turbid, murky, or cloudy appearance, cannot be graded under the other United States standards. (From promulgation of February 2, 1926, effective May 15, 1926.)

[17 FR 224, Jan. 9, 1952]

§ 160.304 FF rosin.

FF rosin is rosin which cannot be graded under the other United States standards because it is of a redder color than such standards. The standard for FF rosin is the type which has been prepared by the Secretary and which has been designated by him "FF". (From promulgation of December 28, 1927, effective April 1, 1928.)

[17 FR 224, Jan. 9, 1952]

§ 160.305 Tall oil rosin.

Tall oil rosin means rosin remaining after the removal of the fatty acids from tall oil by fractional distillation. Such rosin shall have the characteristic form and appearance and other physical and chemical properties normal for other kinds of rosin. (From promulgation of July 26, 1950, effective November 1, 1950.)

[15 FR 4886, July 29, 1950]

APPENDIX A—STANDARD SPECIFICATIONS FOR SPIRITS OF TURPENTINE

1. These specifications shall cover the following kinds of spirits of turpentine: gum spirits of turpentine; steam distilled wood turpentine; sulphate wood turpentine; destructively distilled wood turpentine.

2. Spirits of turpentine shall be clear and free from suspended matter and water.

3. Spirits of turpentine shall have a color not darker than the grade known by the trade as "Standard."

4. Spirits of turpentine shall have a mild odor characteristic of the kind of spirits of turpentine specified.

5. Spirits of turpentine shall be pure and conform with the following physical requirements:

	Gum spirits turpentine steam distilled wood turpentine, sulphate wood turpentine	Destructively distilled wood turpentine
Specific gravity at 15.5/15.5° C.	0.860–0.875	0.860–0.866.
Refractive index at 20° C.	1.465–1.478	1.463–1.483.
Residue after polymerization, maximum.	2.0%	2.0%.
Refractive index of residue, 20° C., minimum.	1.500	1.480.
Initial distilling temperature.	150–160 C	150–157 C.
Distilling below:		
170° C., minimum.	90%	60%.
180° C., minimum.		90%.

6. The properties enumerated in these specifications may be determined in accordance with the Methods of Sampling and Testing Turpentine (A. S. T. M. Designation D 233) of the American Society for Testing Materials.

APPENDIX B—COLORIMETRIC SPECIFICATIONS FOR U.S. ROSIN STANDARDS (MASTER CUBES XA, XB, AND XC)[1]

Grade	x	y	T
XA	0.4048	0.4443	0.706
XB	0.3724	0.4117	0.766
XC	0.3406	0.3696	0.848

[1] x and y are CIE Trillinear coordinates; T is the luminous transmission factor.

[33 FR 8722, June 14, 1968]

SUBCHAPTER G—[RESERVED]

SUBCHAPTER H—PLANT VARIETY PROTECTION

PART 180—REGULATIONS AND RULES OF PRACTICE UNDER THE PLANT VARIETY PROTECTION ACT

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AUTHORITY: Secs. 6, 22, 23, 26, 31, 42(b), 43, 56, 57, 91(c), 84 Stat. 1542; 7 U.S.C. 2326, 2352, 2353, 2356, 2371, 2402(b), 2403, 2426, 2427, 2501(c); 29 FR 16210, as amended, 37 FR 6327, 6505.

SOURCE: 37 FR 23141, Oct. 28, 1972, unless otherwise noted.

DEFINITIONS

§ 180.1 Meaning of words.

(a) *Construction of words.* Words used in the singular form in this part shall be deemed to import the plural, and vice versa, as the case may be.

(b) *Definitions.* The definitions of terms contained in the Act shall apply to such terms when used in this part. In addition, for the purposes of this part, the following terms shall be construed, respectively, to have the following meanings:

(1) "Abandoned application" means an application which has not been pursued to completion within the time allowed by the Office or has been voluntarily abandoned.

(2) "Act" means the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

(3) "Administrator" means the Administrator of the Agricultural Marketing Service of the U.S. Department of Agriculture or any other officer or employee of the Department of Agriculture to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

(4) "Applicant" means the person who applied for a certificate of plant variety protection.

(5) "Application" means an application for plant variety protection under the Act.

(6) "Assignee" means a person to whom an owner assigns his rights in whole or in part.

(7) "Board" means the Plant Variety Protection Board appointed by the Secretary.

(8) "Certificate" means a certificate of plant variety protection issued under the Act by the Office.

(9) "Certified seed" means seed which has been determined by an official seed certifying agency to conform to standards of genetic purity and identity as to variety, which standards have been approved by the Secretary.

(10) "Commissioner" means the Examiner in Chief of the Office.

(11) "Decision and order" includes the Secretary's findings of fact; conclusions with respect to all material issues of fact and law as well as the reasons or basis therefor; and order.

(12) "Examiner" means an employee of the Plant Variety Protection Office who determines whether a certificate is entitled to be issued. The term shall, in all cases, include the Commissioner.

(13) "Foreign application" means an application for plant variety protection filed in a foreign country.

(14) "Hearing Clerk" means the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C.

(15) "Hearing Officer" means an Administrative Law Judge, U.S. Department of Agriculture, or other officer or employee of the Department of Agriculture, duly assigned to preside at a hearing held pursuant to the rules of this part.

(16) "Hybrid" shall be defined as set forth in the regulations under the Federal Seed Act (§ 201.2(y) of this chapter).

(17) "Office" or "Plant Variety Protection Office" means the Plant Variety Protection Office, Livestock Division, AMS, USDA.

(18) "Official Journal" means the "Official Journal of the Plant Variety Protection Office."

(19) "Owner" means a breeder who developed or discovered a variety for which plant variety protection may be applied for under the Act or a person to whom the rights to such variety have been assigned or transferred.

(20) "Person" means an individual, partnership, corporation, association, Government agency, or other business or governmental entity.

(21) "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the U.S. Department of Agriculture to whom authority has heretofore been delegated or to whom authority may hereafter be delegated to act in his stead.

(22) "Seed certifying agency" shall be defined as set forth in the Federal Seed Act (53 Stat. 1275).

(23) "Sale for other than seed purposes" means the transfer of title to and possession of the seed by the owner thereof to a grower or other person for reproduction for the owner, for testing, or for experimental use, and not for commercial sale of the seed or the reproduced seed for planting purposes.

(7 U.S.C. 2326, 2371, 2372)

[37 FR 23141, Oct. 28, 1972, as amended at 49 FR 48677, Dec. 14, 1984]

ADMINISTRATION

§ 180.2 Plant Variety Protection Board.

(a) The Plant Variety Protection Board shall consist of 14 members appointed for a 2-year term. The Board shall be constituted every 2 years and shall consist of individuals who are experts in various areas of varietal development. The membership of the Board, which shall include farmer representation, shall be drawn approximately equally from the private or seed industry sector and from the sector of Government or the public. No member shall be eligible to act on any matter involving any appeal or questions under section 44 of the Act in which he or his employer has a direct financial interest.

(b) The functions of the Board are to: (1) Advise the Secretary concerning adoption of rules and regulations to facilitate the proper administration of the Act, (2) make advisory decisions on all appeals from the examiner or Commissioner, (3) advise the Secretary on the declaration of a protected variety open to use in the public interest, and (4) advise the Secretary on any other matters under the regulations in this part.

(c) The proceedings of the Board shall be conducted in accordance with the Federal Advisory Committee Act (Pub. L. 92-463), OMB Circular A-63, and Administrative Regulations of the U.S. Department of Agriculture (7 CFR Part 25) and such additional operating procedures as are adopted by members of the Board.

[37 FR 23141, Oct. 28, 1972, as amended at 42 FR 9157, Feb. 15, 1977]

THE APPLICATION

§ 180.5 General requirements.

(a) Protection under the Act shall be afforded only as follows:

(1) Nationals and residents of the United States shall be eligible to receive all of the protection under the Act.

(2) Nationals and residents of Member States of the International Union for the Protection of New Varieties of Plants shall be eligible to receive the same protection under the

Act as is provided nationals of the United States.

(3) Persons who are not entitled to protection under paragraph (a) (1) or (2) of this section and who are nationals of a foreign state which is not a member of the International Union for the Protection of New Varieties of Plants shall be entitled to only so much of the protection provided under the Act as is afforded by such foreign state to nationals of the United States for the same genus and species under the laws of such foreign state in effect at the time that the application for protection under the Act is filed, except where further protection under the Act must be provided in order to avoid the violation of a treaty to which the United States is a party.

(b) Applications for certificates shall be made to the Plant Variety Protection Office. An application shall consist of:

(1) A completed application form, except that the section specifying that seed of the variety shall be sold by variety name only as a class of certified seed need not be completed at the time of application.

(2) A completed set of the exhibits as specified in the application form, unless the examiner waives submission of certain exhibits as unnecessary based on other claims and evidence presented in connection with the application.

(3) Language and legibility:

(i) Applications and exhibits must be in the English language and legibly written, typed, or printed.

(ii) Any interlineation, erasure, cancellation, or other alteration must be made in permanent ink before the application is signed and shall be clearly initialed and dated by the applicant to indicate knowledge of such fact at the time of signing.

(4) For the purpose of determining the extent of reciprocity of the protection to be provided under the Act, persons filing an application for plant variety protection in the United States under the provisions of paragraph (a)(3) of this section shall, upon request [1] furnish the Plant Variety Protection Office with a copy of the current plant variety protection laws and regulations for the country of which the applicant is a national and an accurate English translation of such laws and regulations.

(c) Application and exhibit forms shall be issued by the Commissioner. (Copies of the forms may be obtained from the Plant Variety Protection Office, Livestock Division, AMS, USDA, Room 500, National Agricultural Library Building, Beltsville, Maryland 20705.)

(d) Effective as of the effective date of these regulations and rules of practice, the signature of the applicant or his agent or attorney on an affidavit or other statement filed pursuant to these regulations and rules constitutes a certification by him that no information is known to him which is inconsistent with that relied on in the affidavit or statement, which would tend to give an impression different from that conveyed by the affidavit or statement, or the failure to disclose which makes that or any affidavit or statement already filed in the course of the proceeding misleading when considered as a whole.

(7 U.S.C. 2326, 2371, 2372)

[37 FR 23141, Oct. 28, 1972, as amended at 48 FR 30940, July 6, 1983; 49 FR 48677, Dec. 14, 1984]

§ 180.6 Application for certificate.

(a) An application for a plant variety protection certificate shall be signed by or on behalf of the applicant.

(b) The application shall state the full name, including the full first name and the middle initial or name, if any, and the capacity of the person executing it.

(c) The fees for (1) filing application, and (2) search or examination, shall be submitted with the application in accordance with §§ 180.175 through 180.178.

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[1] Copies and translations of foreign laws and regulations will be requested only if they are not in the files of the Plant Variety Protection Office. Applicants may learn whether such a request will be made by writing to the address given in paragraph (c) of this section or by calling (301) 344-2518.

(d) The applicant shall submit with the application at least 2,500 seeds of the viable basic seed required to reproduce the variety.

[37 FR 23141, Oct. 28, 1972, as amended at 42 FR 9157, Feb. 15, 1977]

§ 180.7 Statement of applicant.

(a) The applicant, by signing a completed application, states in accordance with section 42 of the Plant Variety Protection Act that (1) he believes himself, or his privies, to be the original and first breeder or discoverer of the variety for which he solicits a certificate; (2) he, or his privies, has sexually reproduced the variety; (3) he does not know and does not believe that the variety was ever a public variety before his, or his privies, date of determination; (4) he is a sole or joint owner of the variety; (5) the variety was not a public variety more than 1 year prior to the effective filing date of the application; (6) before the date of determination of the variety by the owner, or his privies, or more than 1 year before the effective filing date of the application, the variety was not effectively available to workers in this country and adequately described by a publication reasonably deemed a part of the public technical knowledge in this country, which description must include a disclosure of the principal characteristics by which the variety is distinguished; (7) he or his privies have not offered for sale or marketed the variety, with the agreement of the breeder, in a foreign state for longer than 6 years in the case of vines, forest trees, fruit trees, and ornamental trees, including, in each case, their rootstocks, or for longer than 4 years in the case of all other plants.

(b) If the same variety has been marketed with the agreement of either the applicant or his privies, the applicant shall state the names of the countries in which the variety was marketed and give the day, month, and year of first marketing in each country.

(c) When an applicant files an application, cross-references to other related applications may be made, when appropriate.

[37 FR 23141, Oct. 28, 1972, as amended at 42 FR 9157, Feb. 15, 1977; 48 FR 30940, July 6, 1983]

§ 180.8 Specimen requirements.

(a) The applicant may be required by the examiner to furnish representative specimens of the variety, or its flower, fruit, or seeds, in a quantity and at a specified stage of growth, as may be necessary to verify the statements in the application. Such specimens shall be packed and forwarded in conformity with instructions furnished by the examiner. If the applicant requests the examiner to inspect plants in the field before a final decision is made, all such inspection costs shall be borne by the applicant by payment of fees sufficient to reimburse the Office of all costs, including travel, per diem or subsistence, and salary.

(b) Plant specimens submitted in support of an application shall not be removed from the Office except by an employee of the Office or other person authorized by the Secretary.

(c) Plant specimens submitted to the Office shall, except as provided below, and upon request, be returned to the applicant at his expense after the specimens have served their intended purpose. The Commissioner, upon a finding of good cause, may require that certain specimens be retained in the Office for indefinite periods of time. Specimens which are not returned or not retained as provided above shall be destroyed.

§ 180.9 Drawings and photographs.

(a) Drawings or photographs submitted with an application shall disclose the distinctive characteristics of the variety.

(b) Drawings or photographs shall be in color when color is a distinguishing characteristic of the variety and the color shall be described by use of Nickerson's or other recognized color chart.

(c) Drawings should be sent flat, or may be sent in a suitable mailing tube in accordance with instructions furnished by the Commissioner.

(d) Drawings or photographs submitted with an application shall be retained by the Office as part of the application file.

§ 180.10 Parts of application to be filed together.

All parts of an application, including exhibits, should be submitted to the Office together; otherwise, each part shall be accurately and clearly referenced to the application.

§ 180.11 Application accepted and filed when received.

(a) An application if materially complete when initially submitted shall be accepted and filed to await examination.

(b) If any part of an application is so incomplete, or so defective that it cannot be handled as a completed application for examination, as determined by the Commissioner, the applicant will be notified. The application will be held a maximum of 6 months for completion. Applications not completed at the end of the prescribed period will be considered abandoned. The application fee in such cases will not be refunded.

[37 FR 23141, Oct. 28, 1972, as amended at 42 FR 9157, Feb. 15, 1977]

§ 180.12 Number and filing date of application.

(a) Applications shall be numbered and dated in sequence in the order received in the Office. Applicants will be informed in writing as soon as practicable of the number and effective filing date of the application.

(b) An applicant may claim the benefit of the filing date of a prior foreign application in accordance with section 55 of the Act. A certified copy of the foreign application shall be filed upon request made by the examiner. If a foreign application is not in the English language, an English translation certified as accurate by a sworn or official translator shall be submitted with the application.

§ 180.13 When the owner is deceased or legally incapacitated.

In case of the death of the owner or if the owner is legally incapacitated, the legal representative (executor, administrator, or guardian) or heir or assignee of the deceased owner may sign as the applicant. If an applicant dies between the filing of his application and the granting of a certificate thereon, the certificate may be issued to the legal representative, heir, or assignee, upon proper intervention by him.

§ 180.14 Joint applicants.

(a) Joint owners shall file a joint application by signing as joint applicants.

(b) If an application for certificate is made by two or more persons as joint owners when they were not in fact joint owners, the application shall be amended prior to issuance of a certificate by filing a corrected application together with a written explanation signed by the original applicants. Such statement shall also be signed by the assignee, if any.

(c) If an application has been made by less than all the actual joint owners, the application shall be amended by filing a corrected application together with a written explanation signed by all of the joint owners. Such statement shall also be signed by the assignee, if any.

(d) If a joint owner refuses to join in an application or cannot be found after diligent effort, the remaining owner may file an application on behalf of himself and the missing owner. Such application shall be accompanied by a written explanation and shall state the last known address of the missing owner. Notice of the filing of the application shall be forwarded by the Office to the missing owner at his last known address. If such notice is returned to the Office undelivered, or if the address of the missing owner is unknown, notice of the filing of the application shall be published once in the Official Journal. Prior to the issuance of the certificate, a missing owner may join in an application by filing a written explanation. A certificate obtained by less than all of the joint owners under this paragraph conveys the same rights and privileges to said owners as though all of the original owners had joined in an application.

§ 180.15 Assigned novel varieties and certificates.

In case the whole or a part interest in a variety is assigned, the application shall be made by the owner or one of the persons identified in § 180.13. However, the certificate may be issued to the assignee or jointly to the owner and the assignee when a part interest in a variety is assigned.

§ 180.16 Amendment by applicant.

An application may be amended before or after the first examination and action by the Office, after the second or subsequent examination or reconsideration as specified in § 180.107, or when and as specifically required by the examiner. Such amendment may include a specification that seed of the variety be sold by variety name only as a class of certified seed, if not previously specified or if previously declined. Once an affirmative specification is made, no amendment to reverse such a specification will be permitted unless the variety has not been sold and labeled or publication made in any manner that the variety is to be sold by variety name only as a class of certified seed.

§ 180.17 Papers of completed application to be retained.

The papers submitted with a completed application shall be retained by the Office except as provided in § 180.23(c). After issuance of a certificate of protection the Office will furnish copies of the application and related papers to any person upon payment of the specified fee.

§ 180.18 Applications handled in confidence.

(a) Pending applications shall be handled in confidence. Except as provided below, no information may be given by the Office respecting the filing of an application, the pendency of any particular application, or the subject matter of any particular application, nor will access be given to, or copies furnished of, any pending application or papers relating thereto, without written authority of the applicant, or his assignee or attorney or agent. Exceptions to the above may be made by the Commissioner in accordance with 5 U.S.C. 552 and § 1.4 of this title and upon a finding that such action is necessary to the proper conduct of the affairs of the Office, or to carry out the provisions of any Act of Congress or as provided in sections 56 or 57 of the Act and § 180.19.

(b) Abandoned applications shall not be open to public inspection, except that if an abandoned application is directly referred to in an issued certificate, and is available, it may be inspected or copies obtained by any person on written request, and with written authority received from the applicant. Abandoned applications shall not be returned.

(c) Decisions of the Commissioner on abandoned applications not otherwise open to public inspection (see paragraph (b) of this section) may be published or made available for publication at the Commissioner's discretion. When it is proposed to release such a decision, the applicant shall be notified directly or through the attorney or agent of record and a time not less than 30 days shall be set for presenting objections.

[37 FR 23141, Oct. 28, 1972, as amended at 40 FR 1027, Jan 6, 1975]

§ 180.19 Publication of pending applications.

Information relating to pending applications shall be published in the Official Journal periodically as determined by the Commissioner to be necessary in the public interest. With respect to each application, the Official Journal shall show the (a) application number and date of filing, (b) the name of the variety or temporary designation, (c) the name of the kind of seed, and (d) whether the applicant specified that the variety is to be sold by variety name only as a class of certified seed, together with a limitation in the number of generations that it can be certified. Additional information, such as the name and address of the applicant or a brief description of the novel features of the variety, may be published only upon request or approval received from the applicant at the time the application is filed or at any time before the notice of allowance of a certificate is issued.

[40 FR 1027, Jan. 6, 1975]

§ 180.20 Abandonment for failure to respond within time limit.

(a) Except as otherwise provided in § 180.104, if an applicant fails to advance actively his application within 6 months after the date when the last request for action was mailed to him by the Office, or within such longer time as may be fixed by the Commissioner, the application shall be deemed abandoned. The application fee in such cases will not be refunded.

(b) The submission of an amendment to the application, not responsive to the last request by the Office for action, and any proceedings relative thereto, shall not operate to save the application from abandonment.

(c) When the applicant makes a bona fide attempt to advance his application, and is in substantial compliance with the request for action, but has inadvertently failed to comply with some procedural requirement, opportunity to comply with the procedural requirement shall be given to the applicant before the application shall be deemed abandoned. The Commissioner may set a shortened period, not less than 30 days, to correct any deficiency in the application.

[37 FR 23141, Oct. 28, 1972, as amended at 42 FR 9157, Feb. 15, 1977]

§ 180.21 Extension of time for reply.

The time for reply by an applicant to a request by the Office for certain action, shall be extended by the Commissioner only for good and sufficient cause, and for a specified reasonable time. A request for extension shall be filed on or before the specified time for reply. In no case shall the mere filing of a request for extension require the granting of an extension or stay the time for reply.

§ 180.22 Revival of application abandoned for failure to reply.

An application abandoned for failure on the part of the applicant to advance actively his application to its completion, in accordance with the regulations in this part, may be revived as a pending application within 3 months of such abandonment upon a finding by the Commissioner that the failure was inadvertent or unavoidable and without fraudulent intent. A request to revive an abandoned application shall be accompanied by a written statement showing the cause of the failure to respond, a response to the last request for action, and by the specified fee.

[37 FR 23141, Oct. 28, 1972, as amended at 42 FR 9157, Feb. 15, 1977]

§ 180.23 Voluntary withdrawal and abandonment of application.

(a) An application may be voluntarily withdrawn or abandoned by submitting to the Office a written request for withdrawal or abandonment signed by the applicant or his attorney or agent of record, if any, or the assignee of record, if any.

(b) An application which has been voluntarily abandoned may be revived within 3 months of such abandonment by the payment of the prescribed fee and a showing that the abandonment occurred without fraudulent intent.

(c) An original application which has been voluntarily withdrawn shall be returned to the applicant and may be reconsidered only be refiling and payment of a new application fee.

§ 180.24 Assignee.

The assignee of record of the entire interest in an application is entitled to advance actively or abandon the application to the exclusion of the applicant.

EXAMINATIONS, ALLOWANCES, AND DENIALS

§ 180.100 Examination of applications.

(a) [Reserved]

(b) Examinations of applications shall include a review of all available documents, publications, or other material relating to varieties of the species involved in the application, except that if there are fundamental defects in the application, as determined by the examiner, the examination may be limited to an indentificates, a notice of allowance shall be tion to the applicant of needed corrective action. However, matters of form or procedure need not, but may, be raised by an examiner until a variety is found to be novel and entitled to protection.

[37 FR 23141, Oct. 28, 1972, as amended at 42 FR 9157, Feb. 15, 1977]

§ 180.101 Notice of allowance.

(a) If, on examination, it shall appear that the applicant is entitled to a certificate, a notice of allowance shall be sent to him or his attorney or his agent of record, if any, calling for the payment of the prescribed fee, which fee shall be paid within 1 month from the date of the notice of allowance. Thereafter, a fee for delayed payment shall be made as required under § 180.175.

[37 FR 23141, Oct. 28, 1972, as amended at 42 FR 9157, Feb. 15, 1977]

§ 180.102 Amendments after allowance.

Amendments to the application after the notice of allowance is issued may be made, if the certificate has not been issued.

§ 180.103 Issuance of certificate.

(a) After the notice of allowance has been issued, the prescribed fee and the applicant has clearly specified whether or not the variety shall be sold by variety name only as a class of certified seed, the certificate shall be promptly issued. Once an election is made and a certificate issued specifying that seed of the variety shall be sold by variety name only as a class of certified seed, no waiver of such rights shall be permitted by amendment of the certificate.

(b) The certificate shall be delivered or mailed to the owner.

[37 FR 23141, Oct. 28, 1972, as amended at 42 FR 9158, Feb. 15, 1977]

§ 180.104 Application or certificate abandoned.

(a) Except as provided in paragraph (c) of this section, if the fee specified in the notice of allowance is not paid within 1 month from the date of the notice, the application shall be considered abandoned.

(b) Upon request by the Office, the owner shall replenish the viable basic seed sample of the novel variety. Upon request, the sample of seed which has been replaced shall be returned to the owner, otherwise it shall be destroyed. Failure to replenish viable basic seed within 3 months from the date of request shall result in the certificate being regarded as abandoned. No sooner than 1 year after the date of such request, notices of abandoned certificates shall be published in the Official Journal indicating that the variety has become open for use by the public and, if previously specified to be sold by variety name as "certified seed only," that such restriction no longer applies.

(c) If the allowance fee, the viable basic seed sample or the fee, if any, for delayed payment are submitted within 9 months of the final due date, it may be accepted by the Commissioner as though no abandonment had occurred. For good cause, the Commissioner may extend for a reasonable time the period for submitting a viable basic seed sample before declaring the certificate abandoned.

(d) A certificate may be voluntarily abandoned by the applicant or his attorney or agent of record, if any, or the assignee of record, if any, by notifying the Commissioner in writing. Upon receipt of such notice, the Commissioner shall publish a notice in the Official Journal that the variety has become open for use by the public, and if previously specified to be sold by variety name as "certified seed only," that such restriction no longer applies.

§ 180.105 Denial of application.

(a) If the variety is found by the examiner to be not novel the application shall be denied.

(b) In denying an application for want of novelty, the examiner shall cite the reasons the application was denied. When a reason involves the citation of certain material which is complex, the particular part of the material relied on shall be designated as nearly as practicable. The pertinence of each reason, if not obvious, shall be clearly explained.

(c) If prior domestic certificates are cited as a reason for denial, their numbers and dates and the names of the owners shall be stated. If prior foreign certificates or rights are cited, as a reason for denial, their nationality or country, numbers and dates, and the names of the owners shall be stated, and such other data shall be furnished as may be necessary to enable the applicant to identify the cited certificates or rights.

(d) If printed publications are cited as a reason for denial, the author (if any), title, date, pages or plates, and places of publication, or place where a copy can be found shall be given.

(e) When a denial is based on facts known to the examiner, and upon request by the applicant, the denial shall be supported by the affidavit of the examiner. Such affidavit shall be subject to contridiction or explanation by the affidavits of the applicant and other persons.

(f) Abandoned applications may not be cited as reasons for denial.

§ 180.106 Reply by applicant; request for reconsideration.

(a) After an adverse action by the examiner, the applicant may respond to the denial and may request and reconsideration, with or without amendment of his application. Any amendment shall be responsive to the reason or reasons for denial specified by the examiner.

(b) To obtain a reconsideration, the applicant shall submit a request for reconsideration in writing and shall specifically point out the alleged errors in the examiner's action. The applicant shall respond to each reason cited by the examiner as the basis for the adverse action. A request for reconsideration of a denial based on a faulty form or procedure may be held in abeyance by the Commissioner until the question of novelty is settled.

(c) An applicant's request for a reconsideration must be a bona fide attempt to advance the case to final action. A general allegation by the applicant that certain language which he cites in his application or amendment thereto establishes novelty without specifically explaining how the language distinguishes the alleged novel variety from the material cited by the examiner shall not be grounds for a reconsideration.

§ 180.107 Reconsideration and final action.

If, upon reconsideration, the application is denied by the Commissioner, the applicant shall be notified by the Commissioner of the reason or reasons for denial in the same manner as after the first examination. Any such denial shall be final unless appealed by the applicant to the Secretary within 60 days from the date of denial in accordance with §§ 180.300—180.303. If the denial is sustained by the Secretary on appeal, the denial shall be final subject to appeal to the courts as provided in § 180.500.

§ 180.108 Amendments after final action.

(a) After a final denial by the Commissioner, amendments to the application may be made to overcome the reason or reasons for denial. The acceptance or refusal of any such amendment by the Office and any proceedings relative thereto, shall not relieve the applicant from the time limit set for an appeal or an abandonment for failure to reply.

(b) No amendment of the application can be made in an appeal proceeding. After decision on appeal, amendments can only be made to carry into effect a recommendation under § 180.302(b).

CORRECTION OF ERRORS IN CERTIFICATE

§ 180.120 Corrected certificate—Office mistake.

When a certificate is incorrect because of a mistake in the Office, the Commissioner may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be issued to the owner and recorded in the records of the Office, or the Commissioner may issue a corrected certificate without charge in lieu of and with like effect as a certificate of correction, in accordance with section 84 of the Act.

§ 180.121 Corrected certificate—applicant's mistake.

When a certificate is incorrect because of a mistake by the applicant of a clerical or typographical nature, or of minor character, or in the description of the variety (including, but not limited to, the use of a misleading variety name or a name assigned to a different variety of the same species), and the mistake is found by the Commissioner to have occurred in good faith and does not require a further examination, the Commissioner may, upon payment of the required fee, correct the certificate by issuing a certificate of correction stating the fact and nature of such mistake, under seal, to be issued to the owner and recorded in the records of the Office, in accordance with section 85 of the Act. If the mistake requires a reexamination, a correction of the certificate shall be dependent on the results of the reexamination.

REISSUANCE OF CERTIFICATE

§ 180.122 Certified seed only election.

When an owner elects after a certificate is issued to sell the protected variety by variety name only as a class of certified seed, a new certificate may be issued upon return of the original certificate to the Office and payment of the appropriate fee.

ASSIGNMENTS AND RECORDING

§ 180.130 Recording of assignments.

(a) Any assignment of an application for a certificate, or of a certificate of plant variety protection, or of any interest in a variety, or any license or grant and conveyance of any right to use of the variety, may be submitted for recording in the Office in accordance with section 101 of the Act (7 U.S.C. 2531).

(b) No instrument shall be recorded which is not in the English language or which does not identify the certificate or application to which it relates.

(c) An instrument relating to title of a certificate shall identify the certificate by number and date, the name of the owner, and the name of the novel variety as stated in the certificate. An instrument relating to title of an application shall identify an application by number and date of filing, the name of the owner, and the name of the novel variety as stated in the application.

(d) If an assignment is executed concurrently with or subsequent to the filing of an application but before its number and filing date are ascertained, the assignment shall identify the application by the date of the application, the name of the owner, and the name of the novel variety.

§ 180.131 Conditional assignments.

Assignments recorded in the Office are regarded as absolute assignments for Office purposes until canceled in writing by both parties to the assignment or by a decree of a court of competent jurisdiction. The Office shall not determine whether conditions precedent to the assignment, such as the payment of money, have been fulfilled.

§ 180.132 Assignment records open to public inspection.

(a) Assignment records relating to original or amended certificates shall be open to public inspection and copies of any recorded document may be obtained upon payment of the prescribed fee.

(b) Assignment records relating to any pending or abandoned application shall not be available for inspection except to the extent that pending applications are published as provided in section 57 of the Act and § 180.19, or where necessary to carry out the provisions of any Act of Congress. Copies of assignment records and information on pending or abandoned applications shall be obtainable only upon written authority of the applicant or his assignee, or attorney or agent of record, or where necessary to carry out the provisions of any Act of Congress. An order for a copy of an assignment shall give the proper identification of the assignment.

MARKING OR LABELING PROVISIONS

§ 180.140 After filing.

Upon filing an application for protection of a novel variety and payment of the prescribed fee, the owner, or his designee, may label the variety or containers of the seed of the variety or plants produced from such seed, substantially as follows: "Unauthorized

Propagation Prohibited—(Unauthorized Seed Multiplication Prohibited)—U.S. Variety Protection Applied For."

§ 180.141 After issuance.

Upon issuance of a certificate, the owner of the novel variety or his designee may label the variety or containers of the seed of the variety or plants produced from such seed substantially as follows: "Unauthorized Propagation Prohibited—(Unauthorized Seed Multiplication Prohibited)—U.S. Protected Variety."

§ 180.142 For testing or increase.

An owner who contemplates filing an application and releases for testing or increase, seed of the variety or other sexually reproducible plant material produced from seed of the variety, may label such plant material or containers of the seed or plants substantially as follows: "Unauthorized Propagation Prohibited—For Testing (or Increase) Only."

§ 180.143 Certified seed only.

(a) Upon filing an application, or amendment thereto, specifying seed of the variety is to be sold by variety name only as a class of certified seed, the owner, or his designee, may label containers of seed of the variety substantially as follows: "Unauthorized Propagation Prohibited—U.S. Variety Protection Applied for Specifying That Seed of This Variety Is To Be Sold By Variety Name Only as a Class of Certified Seed."

(b) An owner who has received a certificate specifying that a variety is to be sold by variety name only as a class of certified seed may label containers of the seed of the variety substantially as follows: "Unauthorized Propagation Prohibited—To Be Sold By Variety Name Only as a Class of Certified Seed—U.S. Protected Variety."

§ 180.144 Additional marking or labeling.

Additional clarifying information that is not false or misleading may be used by the owner in addition to the above markings or labeling.

ATTORNEYS AND AGENTS

§ 180.150 Right to be represented.

An applicant may actively advance an application or he may be represented by any attorney or agent authorized in writing by him.

§ 180.151 Authorization.

Only attorneys or agents specified by the applicant shall be allowed to inspect papers or take action of any kind on behalf of the applicant in any pending application or proceedings.

§ 180.152 Revocation of authorization; withdrawal.

An authorization of an attorney or agent may be revoked by an applicant at any time, and an attorney or agent may withdraw, upon application to the Commissioner. When the authorization is so revoked, or the attorney or agent has so withdrawn, the Office shall inform the interested parties and shall thereafter communicate directly with the applicant, or with such other attorney or agent as the applicant may appoint. An assignment will not of itself operate as a revocation of authorization previously given, but the assignee of the entire interest may revoke previous authorizations and be represented by an attorney or agent of his own selection.

§ 180.153 Persons recognized.

Unless specifically authorized as provided in § 180.151, no person shall be permitted to file or advance applications before the Office on behalf of another person.

§ 180.154 Government employees.

Officers and employees of the United States who are disqualified by statute (18 U.S.C. 203 and 205) from practicing as attorneys or agents in proceedings or other matters before Government departments or agencies, shall not be eligible to represent applicants, except officers and employees whose official duties require the preparation and prosecution of applications for certificates of variety protection.

§ 180.155 Signatures.

Every document filed by an attorney or agent representing an applicant or party to a proceeding in the Office shall bear the signature of such attorney or agent, except documents which are required to be signed by the applicant or party.

§ 180.156 Addresses.

Attorneys and agents practicing before the Plant Variety Protection Office shall notify the Office in writing of any change of address. The Office shall address letters to any such person at the last address received.

§ 180.157 Professional conduct.

Attorneys and agents appearing before the Office shall conform to the standards of ethical and professional conduct generally applicable to attorneys appearing before the courts of the United States.

§ 180.158 Advertising.

(a) The use of advertising, circulars, letters, cards, and similar material to solicit plant variety protection business, directly or indirectly, is forbidden as unprofessional conduct, and any person engaging in such solicitation, or associated with or employed by other who so solicit, shall be refused recognition to practice before the Office or may be suspended, excluded, or disbarred from further practice before the Office.

(b) The use of simple professional letterheads, calling cards, or office signs, simple announcements necessitated by opening an office, change of association, or change of address, distributed to clients and friends and insertion of listings in common form (not display) in a classified telephone or city directory, and listings and professional cards with biographical data in standard professional directories shall not be considered a violation of this section.

FEES AND CHARGES

§ 180.175 Fees and charges.

The following fees and charges apply to the services and actions specified below:

(a) Filing application and notifying public of filing	$200
(b) Search or examination	1,600
(c) Allowance and issuance of certificates and notifying public of issuance	200
(d) Revive an abandoned application	200
(e) Reproductions of records, drawings, certificates, exhibits or printed material (copy per page of material)	1
(f) Authentication (each document)	1
(g) Correcting or reissuance of a certificate	200
(h) Recording assignments	5
(i) Copies of 8×10 photographs in color	25
(j) Additional fee for reconsideration	200
(k) Additional fee for late payment	25
(l) Additional fee for late replenishment of seed	25
(m) Appeal to Secretary (refundable if appeal overturns Commissioner's decision)	2,000
(n) Field inspections by a representative of the Plant Variety Protection Office made at the request of the applicant shall be reimbursable in full (including travel, per diem or subsistence, and salary) in accordance with Standardized Government Travel Regulations.	
(o) Any other services not covered above will be charged for at rates prescribed by the Commissioner, but in no event shall they exceed $20 per man-hour.	

(84 Stat. 1542 (7 U.S.C. 2321 *et seq.*))

[37 FR 23141, Oct. 28, 1972, as amended at 49 FR 8234, Mar. 6, 1984; 49 FR 48677, Dec. 14, 1984]

§ 180.176 Fees payable in advance.

Fees and charges shall be paid at the time of making application or at the time of submitting a request for any action by the Office for which a fee or charge is payable and established in this part.

§ 180.177 Method of payment.

Checks or money orders shall be made payable to the Treasurer of the United States. Remittances from foreign countries must be payable and immediately negotiable in the United States for the full amount of the prescribed fee. Money sent by mail to the Office shall be sent at the risk of the sender.

§ 180.178 Refunds.

Money paid by mistake or excess payments shall be refunded, but a mere change of plans after the payment of money, as when a party decides to withdraw an application or to withdraw an appeal, shall not entitle a party to a refund, except for the examination or search fee, which shall be refunded if an application is voluntarily abandoned pursuant to § 180.23(a) before a search or examination has begun. Amounts of $1 or less shall not be refunded unless specifically demanded.

[37 FR 23141, Oct. 28, 1972, as amended at 42 FR 9158, Feb. 15, 1977]

§ 180.179 Copies and certified copies.

(a) Upon request, copies of applications, certificates, or of any records, books, papers, drawings, or photographs in the custody of the Office and which are open to the public, will be furnished to persons entitled thereto, upon payment of the prescribed fee.

(b) Upon request, copies will be authenticated by imprint of the seal of the Office and certified by the official authorized by the Commissioner upon payment of the prescribed fee.

AVAILABILITY OF OFFICE RECORDS

§ 180.190 When open records are available.

Copies of records which are open to the public and in the custody of the Office may be examined in the Office during regular business hours upon approval by the Commissioner.

PROTEST PROCEEDINGS

§ 180.200 Protests to the grant of a certificate.

Opposition on the part of any person to the grant of a certificate shall be permitted while an application is pending and for a period not to exceed 5 years following the issuance of a certificate.

§ 180.201 Protest proceedings.

(a) Opposition shall be made by submitting in writing a petition for protest proceedings, which petition shall be supported by affidavits and shall show the reason or reasons for opposing the application or certificate. The petition and accompanying papers shall be filed in duplicate. If it appears to an examiner that a variety involved in a pending application or covered by a certificate may not be or may not have been entitled to protection under the Act, a protest proceeding may be permitted by the Commissioner.

(b) One copy of the petition and accompanying papers shall be served by the Office upon the applicant or owner, or his attorney or agent of record.

(c) An answer, by the applicant or owner of the certificate or his assignee, in response to the petition may be filed with the Commissioner within 60 days after service of the petition upon such person. If no answer is filed within said period, the Commissioner shall decide the matter on the basis of the allegations set forth in the petition.

(d) If the petition and answer raise any issue of fact needing proof, the Commissioner shall afford each of the parties a period of 60 days in which to file sworn statements or affidavits in support of their respective positions.

(e) As soon as practicable after the petition or the petition and answer are filed or after the expiration of any period for filing sworn statements or affidavits, the Commissioner shall issue his decision as to whether the protests are upheld or denied. The Commissioner may, following the protest proceeding, cancel any certificate issued and may grant another certificate for the same novel variety to a person who proves to the satisfaction of the Commissioner, that he is the breeder or discoverer. The decision shall be served upon the parties in the manner provided in § 180.403.

PRIORITY CONTEST

§ 180.205 Definition; when declared.

A priority contest may be instituted by the Secretary, on his own motion, or upon the request of any person who has applied for protection on the same variety for which an adverse certificate has been issued, for the purpose of determining the question of priority between two or more parties claiming development or discovery of the same novel variety: *Provided, however,* That any person shall have forfeited his right to assert priority when an adverse certificate has been issued if he fails to make a request for the institution of a priority contest within 1 year of the publication in the Official Journal of issuance of the adverse certificate by the Secretary or if he fails to make the request within the period for taking action after refusal of his application on the basis of the adverse certificate.

§ 180.206 Preparation for priority contest between applicants.

(a) Before a priority contest will be handled by the Office, an examiner must determine that the same novel variety is involved in separate applications filed by two or more parties and apparently certifiable to each of the parties, subject to the determination of the question of priority.

(b) The fact that a certificate has been issued will not prevent a priority contest.

§ 180.207 Preparation of priority papers and declaration of priority contest.

(a) When a priority question is found to exist, the examiner shall forward the pertinent files to the Commissioner together with a written statement showing the reason for the contest.

(b) The Commissioner shall institute and declare the priority contest by forwarding a notice to each of the applicants involved. Each notice shall include the name and residence of each of the other applicants or those of his attorney or agent, if any, and of any assignee, and will identify the application of each opposing party by number and filing date, or in the case of a certificate, by the number and date of the certificate. The notice shall specify the basis of the priority contest. The notice shall specify a time, not to exceed 2 months, for filing preliminary statements.

(c) When a notice is returned to the Office undelivered, or when one of the parties resides abroad and his agent in the United States is unknown, notice may be given by publication once in the Official Journal.

§ 180.208 Burden of proof.

The parties to a priority contest will be presumed to have developed their varieties in the chronological order of the filing dates of their applications for certificates involved in the priority contest, and the burden of proof will rest upon the party who last filed an application.

§ 180.209 Preliminary statement on novel variety developed in the United States.

(a) Each party to the priority contest is required to file on or before a date fixed by the Office, a concise preliminary statement giving the facts and dates relating to the development of his alleged novel variety. The preliminary statement must be signed by the owner: *Provided, however,* That in appropriate circumstances, as when the owner is dead or legally incapacitated or a showing is made of inability to obtain a statement from the owner, the preliminary statement may be made by the assignee or by someone authorized or entitled to make the statement and having knowledge of the facts.

(b) Preliminary statements shall be filed with the Office in duplicate. A copy shall be forwarded to each opposing party by the Office as soon as practicable after both parties have filed their statements within the requisite period.

(c) In filing a preliminary statement each party must show the following information:

(1) The date upon which the first determination of the novel variety was made.

(2) The date upon which the first written description of the novel variety was made. If a written description of the novel variety has not been made prior to the filing date of the application, it must be so stated.

(3) The date of the first act or acts susceptible of proof (other than making a written description or disclosing the novel variety to another person), which, if proven, would establish determination of the novel variety, and a brief description of such act or acts. If there have been no such acts, it must be so stated.

(4) The date of the actual production of the novel variety. If the novel variety had not been actually produced before the filing date of the application, it must be so stated.

(d) When an allegation as to the first written description (paragraph (c)(2) of this section) is made, a copy of such written description shall be attached to the statement.

(e) If a party intends to rely on a prior application, domestic or foreign, the preliminary statement shall clearly identify such prior application. Copies of the cited application and related documents will be served by the Office upon all interested parties to the contest. In the case of an application filed in a foreign country, English translations shall be served upon all interested parties by the party relying on the application filed in the foreign country.

§ 180.210 Preliminary statement on novel variety developed in a foreign country.

When the novel variety was developed in a foreign country, the preliminary statement must show (a) the information specified in § 180.209 (c) through (e) and (b) whether, and if so, when and under what circumstances the novel variety was introduced into the United States by or on behalf of the party.

§ 180.211 Statements sealed before filing.

The preliminary statement shall be submitted in a sealed envelope bearing the name of the party filing it and the number and title of the priority contest as shown on the notice issued by the Office. The envelope should be enclosed in an outer mailing envelope marked "To Be Opened by the Commissioner."

§ 180.212 Correction of statement on motion.

In case of material error arising through inadvertence or mistake, a preliminary statement may be corrected upon a satisfactory showing to the Commissioner that the correction is of material significance. Correction of the statement must be made as soon as practicable after the discovery of the error.

§ 180.213 Failure to file statements.

If any party to a priority contest fails to file a preliminary statement, he shall be restricted to his earliest effective filing date.

§ 180.214 Access to preliminary statements.

The preliminary statements shall be open to the inspection of any party after the date set for the filing of preliminary statements (§ 180.207(b)), but shall not be open to inspection prior to that time.

§ 180.215 Dissolution at the request of Commissioner.

If during a priority contest, information is submitted or found which, in the opinion of the Commissioner, may render the variety ineligible for a certificate, the priority contest may be suspended by the Commissioner and referred to an examiner for consideration of the matter and the parties will be notified of the reason for the suspension. Arguments of the parties regarding the suspension will be considered if filed within 60 days of the notification. The suspension will then be continued, modified, or dismissed in accordance with the determination by the Commissioner.

§ 180.216 Concession; abandonment.

(a) An applicant or a certificate holder involved in a priority contest may, at any time, file a written concession of priority, or abandonment of the certificate, signed by him. Upon the filing of such an instrument by any party, the decision shall be rendered against him by the Commissioner.

(b) A concession of priority may not be made by an assignee of a part interest.

§ 180.217 Affidavits and exhibits.

Affidavits and exhibits, including official records and any special matter contained in a printed publication, pertinent to the issue involved in the contest, may be introduced in evidence in a priority contest by any party to the contest. In the case of official records and printed publications, the party introducing the evidence shall specify the record or the printed publication, the page or pages thereof to be used, indicating generally its relevancy, and submit to the Commissioner the record or authenticated copy, or the printed publication or a copy. Copies of affidavits and exhibits, including any record or publication, shall be served by the Commissioner on each of the other interested parties.

§ 180.218 Matters considered in determining priority.

In determining priority, the Commissioner will consider only priority of development based on the evidence submitted. Questions of novelty generally will not be considered in the decision on priority. If he desires, the Commissioner may refer his proposed findings of fact, conclusions, and notice of priority to the Board for an advisory decision.

§ 180.219 Recommendation by Commissioner.

The Commissioner may, either before or concurrently with his decision on the question of priority, but independently of such decision, direct the attention of the examiner to any matter not relating to priority which may come to the Commissioner's attention, and which in his opinion establishes the fact that there has been irregularity which amounts to a bar to the grant of a certificate to either of the parties. The Commissioner may suspend the priority contest and remand the case to the examiner for further consideration of the matters to which attention has been directed.

§ 180.220 Decision by Commissioner.

(a) When a priority contest is concluded on the basis of preliminary statements, or otherwise, proposed findings of fact, conclusions, and notice of priority shall be issued by the Commissioner to the interested parties, giving them a specified period, not less than 30 days, to show cause why such proposed findings of fact, conclusions, and notice of priority should not be made final. Any response made during the specified period will be considered by the Commissioner. Additional affidavits or exhibits will not be considered unless accompanied by a showing of good cause acceptable to the Commissioner. Thereafter, final findings of fact, conclusions, and notice of priority shall be issued by the Commissioner.

(b) The decision shall be entered by the Commissioner against a party whose preliminary statement alleges a date of determination later than the filing date of the other party's application.

§ 180.221 Status of claims of defeated applicant.

Whenever a final notice of priority has been issued by the Commissioner in a priority proceeding and the time limit for an appeal from such decision has expired, the claim or claims constituting the issue of the priority stand finally disposed of without further action by the Commissioner.

§ 180.222 Second priority contest.

A second priority contest between the same parties shall not be entertained by the Commissioner for the same novel variety.

APPEAL TO THE SECRETARY

§ 180.300 Petition to the Secretary.

(a) Petition may be made to the Secretary from any final action of the Commissioner denying an application or refusing to allow a certificate to be issued or from any adverse decision of the Commissioner made under §§ 180.18(c), 180.107, 180.201(e), and 180.220.

(b) Any such petition shall contain a statement of the facts involved and the point or points to be reviewed and the actions requested.

(c) A petition to the Secretary shall be filed in duplicate and accompanied by the prescribed fee (see § 180.175).

(d) Upon request, an opportunity to present data, views, and arguments orally, in an informal manner or in a formal hearing, shall be given to interested persons. If a formal hearing is requested, the proceeding shall be conducted in accordance with §§ 50.28 and 50.30 through 50.33 (§§ 50.28, 50.30 through 50.33 of this chapter) of the rules of practice under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621, et seq.).

(e) Except as otherwise provided in the rules in this part, any such petition not filed within 60 days from the action complained of, shall be dismissed as untimely.

§ 180.301 Commissioner's answer.

(a) The Commissioner may, within such time as may be directed by the Secretary, furnish a written statement to the Secretary in answer to the appellant's petition, including such explanation of the reasons for his action as may be necessary and supplying a copy to the appellant.

(b) Within 20 days from the date of such answer, the appellant may file a reply statement directed only to such new points of argument as may be raised in the Commissioner's answer.

§ 180.302 Decision by the Secretary.

(a) The Secretary, after receiving the advice of the Board, may affirm or reverse the decision of the Commissioner in whole or in part.

(b) Should the decision of the Secretary include an explicit statement that a certificate be allowed based on an amended application, the applicant shall have the right to amend his application in conformity with such statement and such decision shall be binding on the Commissioner.

§ 180.303 Action following decision.

(a) Copies of the decision of the Secretary shall be served upon the appellant and the Commissioner in the manner provided in § 180.403.

(b) When an appeal petition is dismissed, or when the time for appeal to the courts pursuant to the Act has expired and no such appeal or civil action has been filed, proceedings in the appeal shall be considered terminated as of the dismissal or expiration date except in those cases in which the nature of the decision requires further action by the Commissioner. If the decision of the Secretary is appealed or a civil action has been filed pursuant to sections 71, 72, or 73 of the Act, the decision of the Secretary will be stayed pending the outcome of the court appeal or civil action.

GENERAL PROCEDURES IN PRIORITY PROTEST, OR APPEAL PROCEEDINGS

§ 180.400 Extensions of time.

Upon a showing of good cause, extensions of time not otherwise provided for may be granted by the Commissioner or, if an appeal has been filed, by the Secretary for taking any action required in any priority protest, or appeal proceeding.

§ 180.401 Miscellaneous provisions.

(a) Petitions for reconsideration or modification of the decision of the Commissioner in priority or protest proceedings shall be filed within 20 days after the date of the decision.

(b) The Commissioner may consider on petition any matter involving abuse of discretion in the exercise of an examiner's authority, or such other matters as he may deem proper to consider. Any such petition, if not filed within 20 days from the decision complained of, may be dismissed as untimely.

§ 180.402 Service of papers.

(a) Every paper required to be served on opposing parties and filed in the Office in any priority, protest, or appeal proceeding must be served by the Secretary in the manner provided in § 180.403.

(b) The requirement in certain sections that a specified paper shall be served includes a requirement that all related supporting papers shall also be served. Proof of such service upon other parties to the proceeding must be made before the supporting papers will be considered by the Commissioner or Secretary.

§ 180.403 Manner of service.

Service of any paper under this part must be on the attorney or agent of the party if there be such or on the party if there is no attorney or agent, and may be made in any of the following ways:

(a) By mailing a copy of the paper to the person served by certified mail; the date of the return receipt will be regarded as the date of service.

(b) By leaving a copy at the usual place of business of the person served with someone in his employment;

(c) When the person served has no usual place of business, by leaving a copy at his home with a member of his family over 14 years of age and of discretion;

(d) Whenever it shall be found by the Commissioner or Secretary that none of the above modes of serving the paper is practicable, service may be by notice published once in the Office Journal.

REVIEW OF DECISIONS BY COURT

§ 180.500 Appeal to U.S. courts.

Any applicant dissatisfied with the decision of the Secretary on appeal may appeal to the U.S. Court of Customs and Patent Appeals or the U.S. Courts of Appeals, or institute a civil action in the U.S. District Court as set forth in sections 71, 72, and 73 of the Act. In such cases, the appellant or plaintiff shall give notice to the Secretary, state the reasons for appeal or civil action and obtain a certified copy of the record. The certified copy of the record shall be forwarded to the Court by the Plant Variety Protection Office on order of and at the expense of the appellant or plaintiff.

CEASE AND DESIST PROCEEDINGS

§ 180.600 Rules of practice.

Any proceedings instituted under section 128 of the Act for false marking shall be conducted in accordance with §§ 202.10 through 202.29 of this chapter (rules of practice under the Federal Seed Act) (7 U.S.C. 1551 et seq.), except that all references in those rules and regulations to "Examiner" shall be construed to be an Administrative Law Judge, U.S. Department of Agriculture, and not an "Examined" as defined in the regulations under the Plant Variety Protection Act.

PUBLIC USE DECLARATION

§ 180.700 Public interest in wide usage.

(a) If the Secretary has reason to believe that a protected variety should be declared open to use by the public in accordance with section 44 of the Act, the Secretary shall give the owner of the variety appropriate notice and an opportunity to present his views orally or in writing, with regard to the necessity for such action to be taken in the public interest.

(b) Upon the expiration of the period for the presentation of views by the owner, as provided in paragraph (a) of this section, the Secretary shall refer the matter to the Plant Variety Protection Board for its advice, including advice on any limitations or rate of remuneration.

(c) Upon receiving the advice of the Plant Variety Protection Board, the Secretary shall advise the owner of the variety, the members of the Plant Variety Protection Board, and the public, by issuance of a press release, of any decision based on the provisions of section 44 of the Act to declare a variety open to use by the public. Any decision not to declare a variety open to use by the public will be transmitted only to the owner of the variety and the members of the Plant Variety Protection Board.

PUBLICATION

§ 180.800 Publication of public variety descriptions.

Voluntary submissions of varietal descriptions of "public varieties" on forms obtainable from the Office will be accepted for publication in the Office Journal. Such publication shall not constitute recognition that the variety is, in fact, novel.

SUBCHAPTER K—FEDERAL SEED ACT

PART 201—FEDERAL SEED ACT REGULATIONS

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AUTHORITY: Sec. 402, 53 Stat. 1285; 7 U.S.C. 1592.

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RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE

DEFINITIONS

§ 201.1 Meaning of words.

Words in the regulations in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

[5 FR 28, Jan. 4, 1940]

§ 201.2 Terms defined.

When used in the regulations in this part the terms as defined in section 101 of the act, unless modified in this section as provided in the act, shall apply with equal force and effect. In addition, as used in §§ 201.1 through 201.159:

(a) *The act.* The term "act" means the Federal Seed Act, approved August 9, 1939 (53 Stat. 1275; 7 U.S.C. 1551-1610 as amended);

(b) *Person.* The term "person" includes a partnership, corporation, company, society, association, receiver, or trustee;

(c) *Secretary.* The term "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) *Hearing Clerk.* The term "Hearing Clerk" means the Hearing Clerk, United States Department of Agriculture, Washington, D.C.;

(e) *Respondent.* The term "respondent" means a person against whom a complaint is issued;

(f) *Examiner.* The term "examiner" means an employee of the Department of Agriculture, designated by the Secretary to conduct hearings under the act, and §§ 201.1 through 201.159;

(g) FEDERAL REGISTER. The term "FEDERAL REGISTER" means the publication provided by the Act of July 26, 1935 (49 Stat. 500), and acts supplementary thereto and amendatory thereof;

(h) *Agricultural seeds.* The term "agricultural seeds" means the following kinds of grass, forage, and field crop seeds, which are used for seeding purposes in the United States:

Agrotricum—X Agrotriticum Ciferri and Giacom.
Alfalfa—Medicago sativa L.
Alfileria—Erodium cicutarium (L.) L'her.
Alyceclover—Alysicarpus vaginalis (L.) DC.
Bahiagrass—Paspalum notatum Fluegge.
Barrelclover—Medicago truncatula Gaertn.
Barley—Hordeum vulgare L.
Bean, adzuki—Vigna angularis (Willd.) Ohivi and Ohashi.
Bean, adzuki—Phaseolus angularis Willd.
Bean, field—Phaseolus vulgaris L.
Bean, mung—Vigna radiata (L.) Wilczek.
Bean—(see Velvetbean).
Beet, field—Beta vulgaris L.
Beet, sugar—Beta vulgaris L.
Beggarweed—Desmodium tortuosum (Sev.) DC.
Bentgrass, colonial—Agrostis tenuis Sibth.
Bentgrass, creeping—Agrostis stolonifera var. palustris (Huds.) Farw.
Bentgrass, velvet—Agrostis canina L.
Bermudagrass—Cynodon dactylon (L.) Pers. var. dactylon.
Bermudagrass, giant—Cynodon sp. var. aridus. Harlan et de Wit.
Bluegrass, bulbous—Poa bulbosa L.
Bluegrass, Canada—Poa compressa L.
Bluegrass, glaucantha—Poa glaucantha Gaud.
Bluegrass, Kentucky—Poa pratensis L.
Bluegrass, Nevada—Poa nevadensis Vasey.
Bluegrass, rough—Poa trivialis L.
Bluegrass, Texas—Poa arachnifera Torr.
Bluegrass, wood—Poa nemoralis L.
Bluestem, big—Andropogon gerardi Vitm. (A. gerardi Vitman).
Bluestem, little Schizachyrium scoparium (Michx.) Nash (Andropogon scoparius Michx.).
Bluestem, sand—Andropogon hallii Hack.

Bluestem, yellow—Bothriochloa ischaemum (L.) Keng.
Brome, field—Bromus arvensis L.
Brome, meadow—Bromus biebersteinii Roem and Schult.
Brome, mountain—Bromus marginatus Nees.
Brome, smooth—Bromus inermis Leyss.
Broomcorn—Sorghum bicolor (L.) Moench.
Buckwheat—Fagopyrum esculentum Moench (F. vulgare Hill.).
Buffalograss—Buchloe dactyloides (Nutt.) Engl.
Buffelgrass—Cenchrus ciliaris L. (Pennisetum (L.) Link.).
Bur-clover, California—Medicago polymorpha L.
Bur-clover, spotted—Medicago arabica (L.) DC.
Burnet, little—Sanguisorba minor Scop.
Buttonclover—Medicago orbicularis (L.) All.
Canarygrass—Phalaris canariensis L.
Canarygrass, reed—Phalaris arundinacea L.
Carpetgrass—Axonopus affinis Chase.
Castorbean—Ricinum communis (L.)
Chess, soft—Bromus mollis L.
Chickpea—Cicer arietinum L.
Clover, alsike—Trifolium hybridum L.
Clover, arrowleaf—Trifolium vesiculosum Savi.
Clover, berseem—Trifolium alexandrinum L.
Clover, cluster—Trifolium glomeratum L.
Clover, crimson—Trifolium incarnatum L.
Clover, Kenya—Trifolium semipilosum Fresh.
Clover, ladino—Trifolium repens L.
Clover, lappa—Trifolium lappaceum L.
Clover, large hop—Trifolium campestre Schreb.
Clover, Persian—Trifolium resupinatum L.
Clover, red or
  Red clover, mammoth—Trifolium pratense L.
  Red clover, medium —Trifolium pratense L.
Clover, rose—Trifolium hirtum All.
Clover, small hop (suckling)—Trifolium dubium Sibth.
Clover, strawberry—Trifolium fragiferum L.
Clover, sub (subterranean)—Trifolium subterraneum L.
Clover, white—Trifolium repens L. (also see Clover, ladino).
Clover, (also see Alyceclover, Bur-clover, Buttonclover, Sourclover, Sweetclover).
Corn, field—Zea mays L.
Corn, pop—Zea mays L.
Cotton—Gossypium spp.
Cowpea—Vigna unguiculata (L.) Walpers Subsp. unguiculata;
Crambe—Crambe abyssinica Hockst. ex R.E. Fries.
Crested dogtail—Cynosurus cristatus L.
Crotalaria, lance—Crotalaria lanceolata E. Mey.
Crotolaria, showy—Crotalaria spectabilis Roth.
Crotalaria, slenderleaf—Crotolaria brevidens Benth var. intermedia (Kotschy) Polhill;
Crotalaria, striped—Crotolaria pallida Ait.
Crotalaria, Sunn—Crotalaria juncea L.
Crownvetch—Coronilla varia L.
Dallisgrass—Paspalum dilatatum Poir.
Dichondra—Dichondra repens Forst.
Dropseed, sand—Sporobolus cryptandrus (Torr.) A. Gray.
Emmer—Triticum dicoccum Schrank.
Fescue, Chewings—Festuca rubra L. subsp. commutata Gaudin.
Fescue, hair—Festuca tenuifolia Sibth.
Fescue, hard—Festuca longifolia Thuill.
Fescue, meadow—Festuca pratensis Huds.
Fescue, red—Festuca rubra L. subsp. rubra.
Fescue, sheep—Festuca ovina L. var. ovina.
Fescue, tall—Festuca arundinacea Shreb.
Flax—Linum usitatissimum L.
Grama, blue—Bouteloua gracilis (H. B. K.) Lag.
Grama, side-oats—Bouteloua curtipendula (Michx.) Torr.
Guar—Cyamopsis tetragonoloba (L.) Taub.
Buineagrass—Panicum maximum Jacq.
Hardinggrass—Phalaris stenoptera Hack.
Hemp—Cannabis sativa L.
Indiangrass, yellow—Sorghastrum nutans (L.) Nash.
Indigo, hairy—Indigofera hirsuta L.
Japanese lawngrass—Zoysia japonica Steud.
Johnsongrass—Sorghum halepense (L.) Pers.
Kudzu—Pueraria lobata (Willd.) Ohwi.
Lentil—Lens culinaris Medic.
Lespedeza, Korean—Lespedeza stipulacea Maxim.
Lespedeza, sericea or Chinese—Lespedeza cuneata (Dumont) D. Don. [L. sericea (Thunb.) Miq.]
Lespedeza, Siberian—Lespedeza juncea (L. f.) Pers.
Lespedeza, straite—Lespedeza striata (Thunb.) Hook and Arn.
Lovegrass, sand—Eragrostis trichodes (Nutt.) Wood.
Lovegrass, weeping—Eragrostis curvula (Schrad.) Nees.
Lupine, blue—Lupinus angustifolius L.
Lupine, white—Lupinus albus L.
Lupine, yellow—Lupinus luteus L.
Manilagrass—Zoysia matrella (L.) Merr.
Meadow foxtail—Alopecurus pratensis L.
Medick, black—Medicago lupulina L.
Milkvetch—Astragalus cicer L.
Millet, browntop—Brachiaria ramosa (L.) Stapf.
Millet, foxtail—Setaria italica (L.) Beauv.
Millet, Japanese—Echinochloa crusgalli var. frumentacea (Roxb.) Wight.
Millet, pearl—Pennisetum americanum (L.) K. Schum.
Millet, proso—Panicum miliaceum L.

Molassesgrass—Melinis minutiflora Beauv.
Mustard, India—Brassica juncea (L) Coss.
Mustard, black—Brassica nigra Koch.
Mustard, white—Sinapsis alba L.
Napiergrass—Pennisetum purpureum Schumach.
Oat—Avenua byzantina C. Koch., A. sativa L., A. nuda L.
Oatgrass, tall—Arrhenatherum elatius (L.) Mert. and Koch.
Orchardgrass—Dactylis glomerata L.
Panicgrass, blue—Panicum antidotale Retz.
Panicgrass, green—Panicum maximum var. trichoglume Eyes.
Peanut—Arachis hypogaea L.
Pea, field—Pisum sativum var, arvense (L.) Poir.
Poa trivialis—(see Bluegrass, rough).
Rape, annual—Brassica napus var annua Koch.
Rape, bird—Brassica rapa L.
Rape, turnip—Brassica rapa L.
Rape, winter—Brassica napus var biennis (Schubl. and Mart.) Reichb.
Redtop—Agrostis gigantea Roth.
Rescuegrass—Bromus unioloides Kunth.
Rhodesgrass—Chloris gayana Kunth.
Rice—Oryza sativa L.
Ricegrass, Indian—Oryzopsis hymenoides (Roem. and Schult.) Ricker.
Roughpea—Lathyrus hirsutis L.
Rye—Secale cereale L.
Ryegrass, Annual or Italian—Lolium multiflorum Lam.
Ryegrass, perennial—Lolium perenne L.
Ryegrass, Wimmera—Lolium rigidum Gaud.
Safflower—Carthamus tinctorius L.
Saltbush, fourwing—Atriplex canescens (Pursh.) Nutt.
Sainfoin—Onobrychis viciifolia Scopoli;
Sesame—Sesamum indicum L.
Sesbania—Sesbania exaltata (Raf.) Torr.
Smilo—Oryzopsis milacea (L.) Benth and Hook.
Sorghum almum—Sorghum almum Parodi.
Sorghum—Sorghum bicolor (L.) Moench.
Sorghum—Sudangrass Sorghum bicolor × S. sudanense.
Sorgrass—Rhizomatous derivatives of a Johnsongrass × sorghum cross or a Johnsongrass × Sudangrass cross.
Sourclover—Melilotus indica (L.) All.
Soybean—Glycine max (L.) Merrill [Soja max (L.) Piper].
Spelt—Triticum spelta L.
Sudangrass—Sorghum vulgare var sudanenses (Piper) Hitchc.
Sunflower—Helianthus annuus L.
Sweetclover, white—Melilotus alba Desr.
Sweetclover, yellow—Melilotus officinalis (L.) Lam.
Sweet vernalgrass—Anthoxanthum odoratum L.
Switchgrass—Panicum virgatum L.
Timothy—Phleum pratense L.
Timothy, turf—Phleum nodosum (L.) Huds.
Tobacco—Nicotiana tobacum L.
Trefoil, big—Lotus uliginosus Schkuhr.
Trefoil, birdsfoot—Lotus corniculatus L.
Triticale—× Triticosecale (Secale × Trilicum).
Vaseygrass—Paspalum urvillei Steud.
Veldtgrass—Ehrharta calycina J. E. Smith.
Velvetbean—Mucuna deeringisna (port.) Merr.
Velvetgrass—Holcus lanatus L.
Vetch, common—Vicia sativa L. subsp. sativa.
Vetch, hairy—Vicia villosa Roth.
Vetch, Hungarian—Vicia pannonica Grantz.
Vetch, monantha—Vicia articulata Hornem. (V. monantha Desf.)
Vetch, narrowleaf—Vicia sativa subsp. nigra (L.) Ehrh.
Vetch, purple—Vicia benghalensis L.
Vetch, woollypod—Vicia villosa subsp. varia (Host) Corb.
Wheat, common—Triticum aestivum L. (T. vulgare Vill.)
Wheat, club—Triticum compactum Host.
Wheat, durum—Triticum durum Desf.
Wheat, Polish—Triticum polonicum L.
Wheat, poulard—Triticum turgidum L.
Wheat X Agroticum—Triticum X Agrotriticum.
Wheatgrass, beardless—Agropyron spicatum (Pursh) Scribner & Smith f. inerme (Scribner & Smith) Beetle;
Wheatgrass, crested or fairway crested—Agropyron cristatum (L.) Gaertn.
Wheatgrass, crested or standard crested—Agropyron desertorium (Fisch.) Schult.
Wheatgrass, intermediate—Agropyron intermedium (Host) Beauv.
Wheatgrass, pubescent—Agropyran intermedium (Host) Beauvois var. trichophorum (Link) Halacsy
Wheatgrass, Siberian—Agropyron sibiricum (Willd.) Beauv.
Wheatgrass, slender—Agropyron trachycaulum (Lipk.) Malte, ex H. F. Lewis.
Wheatgrass, streambank—Aqropyron riparium Scribn. and Smith.
Wheatgrass, tall—Agropyron elongatum (Host) Beauv.
Wheatgrass, western—Agropyron smithii Rydb.
Wild-rye, Canada—Elymus canadensis L.
Wild-rye, Russian—Elymus junceus Fisch.
Zoysia japonica—(see Japanese lawngrass)
Zoysia matrella—(see Manila grass)

(i) *Vegetable seeds.* The term "vegetable seeds" means the seeds of the following kinds that are or may be grown in gardens or on truck farms and are or may be generally known and sold under the name of vegetable seeds:

Artichoke—Cynara scolymus L.
Asparagus—Asparagus officinalis L.

Asparagusbean—Vigna ungiucuita (L.) Walp. subsp. sesquipedalis (L.) Verde.
Bean, garden—Phaseolus vulgaris L.
Bean, lima—Phaeolus lunatus (L.).
Bean, runner—Phaseolus coccineus L.
Beet—Beta vulgaris L. var. vulgaris.
Broadbean—Vicia faba L.
Broccoli—Brassica oleracea var. botrytis L.
Brussels sprouts—Brassica oleraccea var. gemmifera Zenker.
Burdock, great—Arctium lappa L.
Cabbage—Brassica oleracea var. capitata L.
Cabbage, tronchuda—Brassica oleracea var. tronchuda Bailey.
Cantaloupe—(see muskmelon)
Cardoon—Cynara cardunculus L.
Carrot—Daucus carota L.
Cauliflower—Brassica oleracea var. botrytis L.
Celeriac—Apium graveolens var. rapaceum DC.
Celery—Apium graveolens var. dulce (Mill.) Pers.
Chard, Swiss—Beta vulgaris var. cicla L.
Chicory—Chichorium intybus L.
Chinese cabbage—Brassica pekinensis (Lour.) Rupr.
Chives—Allium schoenophrasum L.
Citron—Citrullus lanatus (Thumb.) Matsum. and Nokai var. citroides (Bailey) Mansf.
Collards—Brassica oleracea var. acephala DC.
Corn, sweet—Zea mays L.
Cornsalad—Valerianella locusta (L.) Laterrade.
Cowpea—Vigna unguiculata (L.) Walpers subsp. unguiculata;
Cress, garden—Lepidium sativum L.
Cress, upland—Barbarea verna (Mill) Aschers.
Cress, water—Nasturtium officinale R. Br.
Cucumber—Cucumis sativus L.
Dandelion—Taraxacum officinale Weber.
Eggplant—Solanum melongena (L.).
Endive—Cichorium endivia L.
Gherkin, West India—Cucumis anguria L.
Kale—Brassica oleracea var. acephala DC.
Kale, Chinese—Brassica oleracea var. alboglabra (Bailey) Musil.
Kale, Siberian—Brassica napus var. pabularia (DC) Reichb.
Kohlrabi—Brassica oleracea var. gongylodes L.
Leek—Allium ampeloprasum L.
Lettuce—Lactuca sativa L.
Muskmelon—Cucumis melo L.
Mustard, India—Brassica juncea (L.) Coss.
Mustard, spinach—Brassica perviridis Bailey.
Okra—Abelmoschas escalentus (L.) Moench.
Onion—Allium cepa L.
Onion, Welsh—Allium fistulosum L.
Pak-choi—Brassica chinensis L.
Parsley—Petroselinum crispum (Mill.) A. W. Hill.
Parsnip—Pastinaca sativa L.
Pea—Pisum sativum L.
Pepper—Capsicum spp.
Pumpkin—Cucurbita pepo L., C. moschata Duchesne and C. maxima Duchesne.
Radish—Raphanus sativus L.
Rhubarb—Rheum rhaponticum L.
Rutabaga—Brassica napus var. napobrassica (L.) Reichb.
Salsify—Tragopogon porrifolius L.
Sorrel—Rumex acetosa L.
Soybean—Glycine max (L.) Merrill [Soja max (L.) Piper].
Spinach—Spinacia oleracea L.
Spinach, New Zealand—Tetragonia tetrogoniodes (Pall.) Ktze.
Squash—Cucurbita Pepo L., C. moschata Duchesne and C. Maxima Duchesne.
Tomato—Lycopersicon esculentum Mill.
Tomato, husk—Physalis pubescens L.
Turnip—Brassica rapa L.
Watermelon—Citrullus lanatus (Thunb.) Matsum, and Nakai.

(j) *Regulations.* The term "regulations" means the rules and regulations promulgated by the Secretary of Agriculture and the joint rules and regulations promulgated by the Secretary of the Treasury and the Secretary of Agriculture under the act.

(k) *Joint regulations.* The term "joint regulations" means the joint rules and regulations promulgated by the Secretary of the Treasury and the Secretary of Agriculture.

(l) *Complete record.* (1) The term "complete record" means information which relates to the origin, treatment, germination, and purity (including variety) of each lot of agricultural seed transported or delivered for transportation in interstate commerce, or which relates to the treatment, germination, and variety of each lot of vegetable seed transported or delivered for transportation in interstate commerce. Such information includes seed samples and records of declarations, labels, purchases, sales, cleaning, bulking, treatment, handling, storage, analyses, tests, and examinations.

(2) The complete record kept by each person for each treatment substance or lot of seed consists of the information pertaining to his own transactions and the information received from others pertaining to their transactions with respect to each treatment substance or lot of seed.

(m) *Declaration.* The term "declaration" means a written statement of a grower, shipper, processor, dealer, or importer giving for any lot of seed the kind, variety, type, origin, or the use for which the seed is intended.

(n) *Declaration of origin.* The term "declaration of origin" means a declaration of a grower or country shipper in the United States stating for each lot of agricultural seed (1) kind of seed, (2) lot number or other identification, (3) State where seed was grown and the county where grown if to be labeled showing the origin as a portion of a State, (4) quantity of seed, (5) date shipped or delivered, (6) to whom sold, shipped, or delivered, and (7) the signature and address of the grower or country shipper issuing the declaration. If the declaration is issued by a grower and the identity of the person delivering the seed is unknown to the receiver, the motor vehicle license number or other identification of the delivering agency should be entered on the declaration by the receiver. If a country shipper's declaration includes seed shipped or delivered to him by another country shipper, it shall give for each lot the other country shipper's lot number as included in the other country shipper's declaration of origin.

(o) *Declaration of kind, variety, or type.* The term "declaration of kind, variety, or type" means a declaration of a grower stating for each lot of seed (1) the name of the kind, variety, or type stated in accordance with §§ 201.9 through 201.12, (2) lot number or other identification, (3) place where seed was grown, (4) quantity of seed, (5) date shipped or delivered, (6) to whom sold, shipped or delivered, and (7) the signature and address of the grower issuing the declaration.

(p) *Mixture.* The term "mixture" means seeds consisting of more than one kind or variety, each present in excess of 5 percent of the whole.

(q) [Reserved]

(r) *Grower.* The term "grower" means any person who produces directly or through a growing contract, or is a seed-crop sharer in seed which is sold, offered for sale, transported, or offered for transportation.

(s) *Country shipper.* The term "country shipper" means any person located in a producing area who purchases seed locally for shipment to seed dealers or to other country shippers.

(t) *Dealer.* The term "dealer" means any person who cleans, processes, sells, offers for sale, transports, or delivers for transportation seeds in interstate commerce.

(u) *Consumer.* The term "consumer" means any person who purchases or otherwise obtains seed for sowing but not for resale.

(v) *Lot of seed.* The term "lot of seed" means a definite quantity of seed identified by a lot number, every portion or bag of which is uniform, within permitted tolerances, for the factors which appear in the labeling.

(w) *Purity.* The term "purity" means the name or names of the kind, type, or variety and the percentage or percentages thereof; the percentage of other agricultural seed or crop seed; the percentage of weed seeds, including noxious weed seeds; the percentage of inert matter; and the names of the noxious weed seeds and the rate of occurrence of each.

(x) *Inoculant.* The term "inoculant" means a commercial preparation containing nitrogen-fixing bacteria applied to seed.

(y) *Hybrid.* The term "hybrid" applied to kinds of varieties of seed means the first generation seed of a cross produced by controlling the pollination and by combining (1) two or more inbred lines; (2) one inbred or a single cross with an open pollinated variety; or (3) two selected clones, seed lines, varieties, or species. "Controlling the pollination" means to use a method of hybridization which will produce pure seed which is at least 75 percent hybrid seed. Hybrid designations shall be treated as variety names.

(z) *Processing.* For the purpose of section 203 (b)(2)(C) of the act the term "processing" means cleaning, scarifying, or blending to obtain uniform quality, and other operations which would change the purity or germination of the seed and therefore require retesting to determine the quality of the seed, but does not include operations such as packaging, labeling, blending together of uniform lots of the same kind or variety without cleaning, or the preparation of a mixture without cleaning, any of which would not require retesting to determine the quality of the seed.

(aa) "Agricultural Service" means the Agricultural Marketing Service, United States Department of Agriculture.

(bb) *Breeder seed.* Breeder seed is a class of certified seed directly controlled by the originating or sponsoring plant breeding institution, or person, or designee thereof, and is the source for the production of seed of the other classes of certified seed.

(cc) *Foundation seed.* Foundation seed is a class of certified seed which is the progeny of Breeder or Foundation seed and is produced and handled under procedures established by the certifying agency, in accordance with this part, for producing the Foundation class of seed, for the purpose of maintaining genetic purity and identity.

(dd) *Registered seed.* Registered seed is a class of certified seed which is the progeny of Breeder or Foundation seed and is produced and handled under procedures established by the certifying agency, in accordance with this part, for producing the Registered class of seed, for the purpose of maintaining genetic purity and identity.

(ee) *Certified seed.* Certified seed is a class of certified seed which is the progeny of Breeder, Foundation, or Registered seed, except as provided in § 201.79 and is produced and handled under procedures established by the certifying agency, in accordance with this part, for producing the Certified class of seed, for the purpose of maintaining genetic purity and identity.

(ff) *Off-type.* The term "off-type" means a plant or seed which deviates in one or more characteristics from that which has been described in accordance with § 201.68(c) as being usual for the strain or variety.

(gg) *Inbred line.* The term "inbred line" means a relatively true-breeding strain resulting from at least five successive generations of controlled self-fertilization or of backcrossing to a recurrent parent with selection, or its equivalent, for specific characteristics.

(hh) *Single cross.* The term "single cross" means the first generation hybrid between two inbred lines.

(ii) *Foundation single cross.* The term "foundation single cross" means a single cross used in the production of a double cross, a three-way, or a top cross.

(jj) *Double cross.* The term "double cross" means the first generation hybrid between two single crosses.

(kk) *Top cross.* The term "top cross" means the first generation hybrid of a cross between an inbred line and an open-pollinated variety or the first-generation hybrid between a single cross and an open-pollinated variety.

(ll) *Three-way cross.* The term "three-way cross" means a first generation hybrid between a single cross and an inbred line.

(mm) *Open-pollination.* The term "open-pollination" means pollination that occurs naturally as opposed to controlled pollination, such as by detasselling, cytoplasmic male sterility, self-incompatibility of similar processes.

[5 FR 28, Jan. 4, 1940]

EDITORIAL NOTE: For Federal Register citations affecting § 201.2, see the List of CFR Sections Affected in the Finding Aids section of this volume.

ADMINISTRATION

§ 201.3 Administrator.

The Administrator of the Consumer and Marketing Service shall perform such duties as the Secretary require in enforcing the provisions of the act and of the regulations in this part.

[5 FR 30, Jan. 4, 1940, as amended at 13 FR 8731, Dec. 30, 1948; 19 FR 57; Jan. 6, 1954]

RECORDS FOR AGRICULTURAL AND VEGETABLE SEEDS

§ 201.4 Maintenance and accessibility.

(a) Each person transporting or delivering for transportation in interstate commerce agricultural or vegetable seed subject to the act shall keep for a period of 3 years a complete record of each lot of such seed so transported or delivered, including a sample representing each lot of such seed, except that any seed sample may be discarded 1 year after the entire lot represented by such sample has been disposed of by such person.

(b) Each sample of agricultural seed retained shall be at least the weight required for a noxious-weed seed examination as set forth in § 201.46 and each sample of vegetable seed retained shall consist of at least 400 seeds. The record shall be kept in such manner as to permit comparison with the records required to be kept by other persons for the same lot of seed so that the origin (including variety) of agricultural seed and the treatment, germination and variety of vegetable seed may be traced from the grower to the ultimate consumer and so that the lot of seed may be correctly labeled. The record shall be accessible for inspection by the authorized agents of the Secretary for purposes of the effective administration of the act at any time during customary business hours.

[24 FR 3951, May 15, 1959, as amended at 32 FR 12778, Sept. 6, 1967]

§ 201.5 Origin.

(a) The complete record for any lot of seed of alfalfa, red clover, white clover, or field corn, except hybrid seed corn, shall include a declaration of origin, or information traceable to a declaration of origin or evidence showing that a declaration of origin could not be obtained.

(b) Each country shipper shall retain a copy of each declaration which he issues and shall attach thereto a detailed record showing the names and addresses of growers or country shippers from whom the seed was purchased, the quantity of seed purchased from each, and the date on which it was delivered to him.

[24 FR 3951, May 5, 1959, as amended at 32 FR 12776, Sept. 6, 1967]

§ 201.6 Germination.

The complete record shall include the records of all laboratory tests for germination and hard seed for each lot of seed offered for transportation in whole or in part. The record shall show the kind of seed, lot number, date of test, percentage of germination and hard seeds, and such other information as may be necessary to show the method used.

[5 FR 30, Jan. 4, 1940]

§ 201.7 Purity (including variety).

The complete record for any lot of seed shall include (a) records of analyses, tests, and examinations including statements of weed seeds, noxious weed seeds, inert matter, other agricultural seeds, and of any determinations of kind, variety, or type and a description of the methods used; and (b) for seeds indistinguishable by seed characteristics, records necessary to disclose the kind, variety, or type, including a grower's declaration of kind, variety, or type or an invoice, or other document establishing the kind, variety, or type to be that stated, and a representative sample of the seed. The grower's declaration shall be obtained and kept by the person procuring the seed from the grower. A copy of the grower's declaration and a sample of the seed shall be retained by the grower.

[5 FR 30, Jan. 4, 1940, as amended at 20 FR 7929, Oct. 21, 1955; 24 FR 3951, May 15, 1959]

§ 201.7a Treated seed.

The complete record for any lot consisting of or containing treated seed shall include records necessary to disclose the name of any substance or substances used in the treatment of such seed, including a lable or invoice or other document received from any person establishing the name of any substance or substances used in the treatment to be as stated, and a representative sample of the treated seed.

[32 FR 12778, Sept. 6, 1967]

LABELING AGRICULTURAL SEEDS

§ 201.8 Contents of the label.

The label shall contain the required information in any form that is clearly legible and complies with the regulations in this part. The information may be on a tag attached securely to the container, or may be printed in a conspicuous manner on a side or the top of the container. The label may contain information in addition to that required by the act, provided such information is not misleading.

[5 FR 30 Jan. 4, 1940, as amended at 24 FR 3952, May 15, 1959]

§ 201.9 Kind.

The name of each kind of seed present in excess of 5 percent shall be shown on the label and need not be accompanied by the word "kind." When two or more kinds of seed are named on the label, the name of each kind shall be accompanied by the percentage of each. When only one kind of seed is present in excess of 5 percent and no variety name or type designation is shown, the percentage of that kind may be shown as "pure seed" and such percentage shall apply only to seed of the kind named.

[5 FR 30, Jan. 4, 1940]

§ 201.10 Variety.

(a) The following kinds of agricultural seeds are generally labeled as to variety and shall be labeled to show the variety name or the words "Variety Not Stated."

Alfalfa, Bahiagrass, Barley, Bean, field, Beet, field, Brome, smooth, Broomcorn, Clover, crimson, Clover, red, Clover, white, Corn, field, Corn, pop, Cotton, Cowpea, Crambe, Fescue, tall, Flax, Lespedeza, striate, Millet, foxtail, Millet, pearl, Oat, Pea, field, Peanut, Rice, Rye, Safflower, Sorghum, Sorghum-sudangrass, hybrid, Soybean, Sudangrass, Sunflower, Tobacco, Trefoil, birdsfoot, Triticale, Wheat, common, Wheat, durum.

(b) If the name of the variety is given, the name may be associated with the name of the kind with or without the words "kind and variety." The percentage in such case, which may be shown as "pure seed," shall apply only to seed of the variety named, except for the labeling of hybrids as provided in § 201.11a. If separate percentages for the kind and the variety or hybrid are shown, the name of the kind and the name of the variety or the term "hybrid" shall be clearly associated with the respective percentages. When two or more varieties are present in excess of 5 percent and are named on the label, the name of each variety shall be accompanied by the percentage of each.

[32 FR 12778, Sept. 6, 1967, and 33 FR 10840, July 31, 1968, as amended at 35 FR 6108, Apr. 15, 1970]

§ 201.11 Type.

(a) When type is designated, such designation may be associated with the name of the kind but shall in all cases be clearly associated with the word "type." The percentage, which may be shown as "pure seed", shall apply only to the type designated. If separate percentages for the kind and the type are shown, such percentages shall be clearly associated with the name of the kind and the name of the type.

(b) If the type designation does not include a variety name, it shall include a name descriptive of a group of varieties of similar character and the pure seed shall be at least 90 percent of one or more varieties all of which conform to the type designation.

(c) If the name of a variety is used as a part of the type designation, the seed shall be of that variety and may contain: (1) An admixture of seed of other indistinguishable varieties of the same kind and of similar character; or, (2) an admixture of indistinguishable seeds having genetic characteristics dissimilar to the variety named by reason of cross-fertilization with other varieties. In either case, at least 90 percent of the pure seed shall be of the variety named or upon growth shall produce plants having characteristics similar to the variety named.

[5 FR 30, Jan. 4, 1940]

§ 201.11a Hybrid.

If any one kind or kind and variety of seed present in excess of 5 percent is "hybrid" seed, it shall be designated "hybrid" on the label. The percentage that is hybrid shall be at least 95 percent of the percentage of pure seed shown unless the percentage of pure seed which is hybrid seed is shown separately. If two or more kinds or varieties are present in excess of 5 percent and are named on the label, each that is hybrid shall be designated as hybrid on the label. Any one kind or kind and variety that has pure seed which is less than 95 percent but more than 75 percent hybrid seed as a result of incompletely controlled pollination in a cross shall be labeled to show (a) the percentage of pure seed that is hybrid seed or (b) a statement such as

"Contains from 75 percent to 95 percent hybrid seed." No one kind or variety of seed shall be labeled as hybrid if the pure seed contains less than 75 percent hybrid seed.

[33 FR 10840, July 31, 1968]

§ 201.12 Name of kind and variety.

The representation of kind or kind and variety shall be confined to the name of the kind or kind and variety determined in accordance with § 201.34. The name shall not have affixed thereto words or terms that create a misleading impression as to the history or characteristics of the kind or variety.

[20 FR 7929, Oct. 21, 1955]

§ 201.12a Lawn and turf seed mixtures.

Seed mixtures intended for lawn and turf purposes shall be designated as a mixture on the label and each seed component shall be listed on the label in the order of predominance.

[49 FR 1172, Jan. 10, 1984]

§ 201.13 Lot number or other identification.

The lot number or other identification shall be shown in the label and shall be the same as that used in the records pertaining to the same lot of seed.

[5 FR 30, Jan. 4, 1940]

§ 201.14 Origin.

(a) Alfalfa, red clover, white clover, and field corn (except hybrid seed corn) shall be labeled to show: (1) The origin, if known; or (2) if the origin is not known, the statement "origin unknown."

(b) Whenever such seed originates in more than one State, the name of each State and the percentage of seed originating in each State shall be given in the order of its predominance. Whenever such seed originates in a portion of a State, it shall be permissible to label such seed as originating in such portion of a State.

(c) Reasonable precautions to insure that the origin of seed is known shall include the maintaining of a record as described in § 201.5. The examination of the seed and any pertinent facts may be taken into consideration in determining whether reasonable precautions have been taken to insure the origin to be that which is represented.

[5 FR 31, Jan. 4, 1940, as amended at 20 FR 7929, Oct. 21, 1955; 32 FR 12779, Sept. 6, 1967]

§ 201.15 Weed seeds.

The percentage of weed seeds shall include seeds of plants considered weeds in the State into which the seed is offered for transportation or transported and shall include noxious weed seeds.

[5 FR 31, Jan. 4, 1940]

§ 201.16 Noxious weed seeds.

The names of the kinds of noxious weed seeds and the rate of occurrence of each shall be expressed in the label in accordance with, and the rate of occurrence shall not exceed the rate permitted by, the law and regulations of the State into which the seed is offered for transportation or is transported. If in the course of such transportation, or thereafter, the seed it diverted to another State of destination, the person or persons responsible for such diversion shall cause the seed to be relabeled wiith respect to noxious-weed seed content, if necessary, to conform to the laws and regulations of the State to which the seed is diverted.

[5 FR 31, Jan. 4, 1940, as amended at 20 FR 7929, Oct. 21, 1955]

§ 201.17 Noxious-weed seeds in the District of Columbia.

Noxious-weed seeds in the District of Columbia are: Quackgrass (Agropyron repens), Canada thistle (Cirsium arvense), field bindweed (Convolvulus arvensis), bermuda grass (Cynodon dactylon), giant bermuda grass (Cynodon dactylon var. aridus), annual bluegrass (Poa annua), and wild garlic or wild onion (Allium canadense or Allium vineale). The name and number per pound of each kind of such noxious-weed seeds present shall be stated on the label.

[32 FR 12779, Sept. 6, 1967, as amended at 35 FR 6108, Apr. 15, 1970]

§ 201.18 Other agricultural seeds (crop seeds).

Agricultural seeds other than those included in the percentage or percentages of kind, variety, or type may be expressed as "crop seeds" or "other crop seeds," but the percentage shall include collectively all kinds, varieties, or types not named upon the label.

[5 FR 31, Jan. 4, 1940]

§ 201.19 Inert matter.

The label shall show the percentage by weight of inert matter.

[5 FR 31, Jan. 4, 1940]

§ 201.20 Germination.

The label shall show the percentage of germination for each kind or kind and variety or kind and type or kind and hybrid of agricultural seed present in excess of 5 percent or shown in the labeling to be present in a proportion of 5 percent or less: *Provided*, That this shall not apply to freshly harvested Kentucky bluegrass or sugar beet seed transported or delivered for transportation during the months of July, August, and September for seeding during the year in which the seed is produced.

[24 FR 3953, May 15, 1959, as amended at 32 FR 12779, Sept. 6, 1967]

§ 201.21 Hard seed.

The label shall show the percentage of hard seed, if any is present, for any seed required to be labeled as to the percentage of germination, and the percentage of hard seed shall not be included as part of the germination percentage.

[24 FR 3953, May 15, 1959]

§ 201.22 Date of test.

(a) The label shall show the month and year in which the germination test was completed. No more than 5 calendar months shall have elapsed between the last day of the month in which the germination test was completed and the date of transportation or delivery for transportation in interstate commerce, except for seed in hermetically sealed containers as provided in § 201.36c in which case no more than 24 calendar months shall have elapsed between the last day of the month in which the germination test was completed prior to packaging and the date of transportation or delivery for transportation in interstate commerce.

(b) In the case of a seed mixture, it is only necessary to state the calendar month and year of such test for the kind or variety or type of agricultural seed contained in such mixture which has the oldest calendar month and year test date among the test conducted on all the kinds or varieties or types of agricultural seed contained in such mixture.

(c) The following kinds shall be tested within the indicated time before interstate shipment:

Agricultural seeds and mixtures thereof	Months from test date to shipment
Bentgrass: Agrostis tenuis and palustris	15
Bluegrass, Kentucky: Poa pratensis	15
Fescue, Chewings: Festuca rubra var. commutata	15
Fescue Hard: Festuca longifolia Thuill	15
Fescue, Red: Festuca rubra	15
Fescue, Tall: Festuca arundinacea	15
Ryegrass, Annual: Lolium multiflorum	15
Ryegrass, Perennial: Lolium perenne	15

[5 FR 31, Jan. 4, 1940, as amended at 32 FR 12779, Sept. 6, 1967; 49 FR 1172, Jan. 10, 1984]

§ 201.23 Name of shipper or consignee.

The full name and address of either the shipper or consignee shall appear upon the label. If the name and address of the shipper are not shown upon the label, a code designation identifying the shipper shall be shown.

[5 FR 31, Jan. 4, 1940]

§ 201.24 Code designation.

The code designation used in lieu of the full name and address of the person who transports or delivers seed for transportation in interstate commerce shall be approved by the Administrator of the Consumer and Marketing Service or such other person as may be designated by him for the purpose. When used, the code designation shall appear on the label in a clear and legible manner.

[5 FR 31, Jan. 4, 1940, as amended at 13 FR 8731, Dec. 30, 1948; 19 FR 57, Jan. 6, 1954]

§ 201.24a Inoculated seed.

Seed claimed to be inoculated shall be labeled to show the month and year beyond which the inoculant on the seed is no longer claimed to be effective by a statement such as, "Inoculant not claimed to be effective after———(Month and year)."

[32 FR 12779, Sept. 6, 1967]

LABELING VEGETABLE SEEDS

§ 201.25 Contents of the label.

Vegetable seed in packets and in larger containers shall be labeled with the required information in any form that is clearly legible. Any tag used shall be securely attached to the container. The label may contain information in addition to that required by the act, provided such information is not misleading.

[5 FR 31, Jan. 4, 1940]

§ 201.26 Kind, variety, and hybrid.

The label shall bear the name of each kind and variety present as determined in accordance with § 201.34. The name shall not have affixed thereto words or terms that create a misleading impression as to the history or characteristics of kind or variety. If two or more kinds or varieties are present, the percentage of each shall be shown. If any one kind or variety named on the label is "hybrid" seed, it shall be so designated on the label. If two or more kinds or varieties are named on the label, each that is hybrid shall be shown as "hybrid" on the label. Any kind or variety that is less than 95 percent but more than 75 percent hybrid seed as a result of incompletely controlled pollination is a cross shall be labeled to show (a) the percentage that is hybrid seed or (b) a statement such as "Contains from 75 percent to 95 percent hybrid seed." No one kind or variety of seed shall be labeled as hybrid if it contains less than 75 percent hybrid seed.

[33 FR 10841, July 31, 1968]

§ 201.27 Name of shipper or consignee.

The full name and address of either the shipper, or consignee, shall appear upon the label except that if the name and address of the shipper are not shown, a code designation identifying the shipper shall be shown.

[5 FR 31, Jan. 4, 1940]

§ 201.28 Code designation.

The code designation used in lieu of the full name and address of the person who transports or delivers seed for transportation in interstate commerce shall be approved by the Administrator of the Consumer and Marketing Service or such other person as may be designated by him for the purpose. When used, the code designation shall appear on the label in a clear and legible manner.

[5 FR 31, Jan. 4, 1940, as amended at 13 FR 8731, Dec. 30, 1948; 19 FR 57, Jan. 6, 1954]

§ 201.29 Germination of vegetable seed in containers of 1 pound or less.

Vegetable seeds in containers of 1 pound or less which have a germination equal to or better than the standard set forth in § 201.31 need not be labeled to show the percentage of germination and date of test. Each variety of vegetable seed which has a germination percentage less than the standard set forth in § 201.31 shall have the words "Below Standard" clearly shown in a conspicuous place on the label or on the face of the container in type no smaller than 8 points. Each variety which germinates less than the standard shall also be labeled to show the percentage of germination and the percentage of hard seed (if any).

[32 FR 12779, Sept. 6, 1967]

§ 201.29a Germination of vegetable seed in containers of more than 1 pound.

Each variety of vegetable seeds in containers of more than 1 pound shall be labeled to show the percentage of germination and the percentage of hard seed (if any).

[32 FR 12779, Sept. 6, 1967]

§ 201.30 Hard seed.

The label shall show the percentage or hard seed, if any is present, for any seed required to be labeled as to the percentage of germination, and the percentage of hard seed shall not be included as part of the germination percentage.

[32 FR 12779, Sept. 6, 1967]

§ 201.30a Date of test.

When the percentage of germination is required to be shown, the label shall show the month and year in which the germination test was completed. No more than 5 calendar months shall have elapsed between the last day of the month in which the germination test was completed and the date of transportation or delivery for transportation in interstate commerce, except for seed in hermetically sealed containers in which case no more than 24 calendar months shall have elapsed between the last day of the month in which the germination test was completed prior to packaging and the date of transportation or delivery for transportation in interstate commerce.

[32 FR 12779, Sept. 6, 1967]

§ 201.30b Lot number or other lot identification of vegetable seed in containers of more than 1 pound.

The lot number or other lot identification of vegetable seed in containers of more than 1 pound shall be shown on the label and shall be the same as that used in the records pertaining to the same lot of seed.

[35 FR 6108, Apr. 15, 1970]

§ 201.31 Germination standards for vegetable seeds in interstate commerce.

The following germination standards for vegetable seeds in interstate commerce, which shall be construed to include hard seed, are determined and established under section 403(c) of the act:

	Percent
Artichoke	60
Asparagus	70
Asparagusbean	75
Bean, garden	70
Bean, lima	70
Bean, runner	75
Beet	65
Broadbean	75
Broccoli	75
Brussel sprouts	70
Burdock, great	60
Cabbage	75
Cabbage tronchuda	70
Cantaloupe (See muskmelon).	
Cardoon	60
Carrot	55
Cauliflower	75
Celeriac	55
Celery	55
Chard, Swiss	65
Chicory	65
Chinese cabbage	75
Chives	50
Citron	65
Collards	80
Corn, sweet	75
Cornsalad	70
Cowpea	75
Cress, garden	75
Cress, upland	60
Cress, water	40
Cucumber	80
Dandelion	60
Eggplant	60
Endive	70
Kale	75
Kale, Chinese	75
Kale, Siberian	75
Kohlrabi	75
Leek	60
Lettuce	80
Muskmelon	75
Mustard, India	75
Mustard, spinach	75
Okra	50
Onion	70
Onion, Welsh	70
Pak-choi	75
Parsley	60
Parsnip	60
Pea	80
Pepper	55
Pumpkin	75
Radish	75
Rhubarb	60
Rutabaga	75
Salsify	75
Sorrel	65
Soybean	75
Spinach	60
Spinach, New Zealand	40
Squash	75
Tomato	75
Tomato, husk	50
Turnip	80
Watermelon	70

[15 FR 2394, Apr. 26, 1950, as amended at 20 FR 7929, Oct. 21, 1955; 25 FR 8769, Sept. 13, 1960; 26 FR 10035, Oct. 26, 1961; 27 FR 3252, Apr. 5, 1962; 32 FR 12779, Sept. 6, 1967; 35 FR 6108, Apr. 15, 1970]

LABELING IN GENERAL

§ 201.31a Labeling treated seed.

(a) *Contents of label.* Any agricultural seed or any mixture thereof or any vegetable seed or any mixture thereof, for seeding purposes, that has been treated shall be labeled in type no smaller than 8 point to indicate that the seed has been treated and to show the name of any substance or a description of any process (other than application of a substance) used in such treatment, in accordance with this section; for example,

Treated with ———————— (name of substance or process) or ———————— (name of substance or process) treated.

If the substance used in such treatment in the amount remaining with the seed is harmful to humans or other vertebrate animals, the seed shall also bear a label containing additional statements as required by paragraphs (c) and (d) of this section. The label shall contain the required information in any form that is clearly legible and complies with the regulations in this part. The information may be on the tag bearing the analysis information or on a separate tag, or it may be printed in a conspicuous manner on a side or top of the container.

(b) *Name of substance.* The name of any substance as required by paragraph (a) of this section shall be the commonly accepted coined, chemical (generic), or abbreviated chemical name. Commonly accepted coined names are free for general use by the public, are not private trade-marks, and are commonly recognized as names of particular substances; such as thiram, captan, lindane, and dichlone. Examples of commonly accepted chemical (generic) names are: bluestone, calcium carbonate, cuprous oxide, zinc hydroxide, hexachlorobenzene, and ethyl mercury acetate. The terms "mercury" or "mercurial" may be used in labeling all types of mercurials. Examples of commonly accepted abbreviated chemical names are: BHC (1, 2, 3, 4, 5, 6-Hexachlorocyclohexane) and DDT (dichloro diphenyl trichloroethane).

(c) *Mercurials and similarly toxic substances.* (1) Seed treated with a mercurial or similarly toxic substance, if any amount remains with the seed, shall be labeled to show a representation of a skull and crossbones at least twice the size of the type used for information required to be on the label under paragraph (a) and shall also include in red letters on a brackground of distinctly contrasting color a statement worded substantially as follows: "This seed has been treated with Poison," "Treated with Poison," "Poison treated," or "Poison". The word "Poison" shall appear in type no less than 8 point.

(2) Mercurials and similarly toxic substances include the following:

Aldrin, technical
Demeton
Dieldrin
p-Dimethylaminobenzenediazo sodium sulfonate
Endrin
Ethion
Heptachlor
Mercurials, all types
Parathion
Phorate
Toxaphene
O - O - Diethyl-O-(isopropyl-4-methyl-6-pyrimidyl) thiophosphate
O, O-Diethyl-S-2-(ethylthio) ethyl phosphorodithioate

Any amount of such substances remaining with the seed is considered harmful within the meaning of this section.

(d) *Other harmful substances.* If a substance, other than one which would be classified as a mercurial or similarly toxic substance under paragraph (c) of this section, is used in the treatment of seed, and the amount remaining with the seed is harmful to humans or other vertebrate animals, the seed shall be labeled with an appropriate caution statement in type no smaller than 8 point worded substantially as follows: "Do not use for food," "Do not use for feed," "Do not use for oil purposes," or "Do not use for food, feed, or oil purposes." Any amount of any substance, not within paragraph (c) of this section, used in the treatment of the seed, which remains with the seed is considered harmful within the meaning of this section when the seed is in containers of more than 4 ounces, except that the following substances shall not be deemed harmful when present at a rate less than the number of parts per million indicated:

Allethrin—2 p.p.m.
Malathion—8 p.p.m.
Methoxyclor—2 p.p.m.
Piperonyl butoxide—8 p.p.m. on oat and sorghum and 20 p.p.m. on all other seeds.
Pyrethrins—1 p.p.m. on oat and sorghum and 3 p.p.m. on all other seeds.

[24 FR 3953, May 15, 1959, as amended at 25 FR 8769, Sept. 13, 1960; 30 FR 7888, June 18, 1965]

§ 201.32 Screenings.

Screenings shipped in interstate commerce, if in containers, shall be labeled in a legible manner with letters not smaller than 18 point type and, if in bulk, shall be invoiced with the words, "Screenings for processing—not for seeding."

[5 FR 31, Jan. 4, 1940]

§ 201.33 Seed in bulk or large quantities; seed for cleaning or processing.

(a) In the case of seed in bulk, the information required under sections 201(a), (b), and (i) of the act shall appear in the invoice or other records accompanying and pertaining to such seed. If the seed is in containers and in quantities of 20,000 pounds or more, regardless of the number of lots included, the information required on each container under sections 201 (a), (b), and (i) of the act need not be shown on each container; *Provided*, That: (1) The omission from each container of a label with the required information is with the knowledge and consent of the consignee prior to the transportation or delivery for transportation of such seed in interstate commerce; (2) each container has stenciled upon it or bears a label containing a lot designation; and (3) the invoice or other records accompanying and pertaining to such seed bear the various statements required for the respective seeds.

(b) Seed consigned to a seed cleaning or processing establishment, for cleaning or processing for seeding purposes, need not be labeled to show the information required on each container under sections 201 (a), (b), and (i) of the act if it is in bulk, or in containers and in quantities of 20,000 pounds or more regardless of the number of lots involved, and the invoice or other records accompanying and pertaining to such seed show that it is "Seed for processing," or, if the seed is in containers and in quantities less than 20,000 pounds and each container bears a label with the words "Seed for processing." If any such seed is later to be labeled as to origin and/or variety, the origin and/or variety as the case may be, shall be shown on the invoice if the seed is in bulk, otherwise, on a label, at the time of transportation to such establishment, except that if it is covered by a declaration of origin and/or variety it will be sufficient if the lot designation appearing in the declaration is placed on the invoice if the seed is in bulk, or on a label if the seed is in containers, regardless of the quantity.

[24 FR 3953, May 15, 1959]

§ 201.34 Kind, variety, and type; treatment substances; designation as hybrid.

(a) *Indistinguishable seed and treatment substances.* Reasonable precautions to insure that the kind, variety, or type of indistinguishable agricultural or vegetable seeds and names of any treatment substance are properly stated shall include the maintaining of the records described in § 201.7 or § 201.7a. The examination of the seed and any pertinent facts may be taken into consideration in determining whether reasonable precautions have been taken to insure the kind, variety, or type of seed or any treatment substance on the seed is that which is shown. Reasonable precautions in labeling ryegrass seed as to kind shall include making or obtaining the results of a fluorescence test unless (1) the shortness of the time interval between receipt of the seed lot and the shipment of the seed in interstate commerce, or (2) dormancy of the seeds in the lot, or (3) other circumstances beyond the control of the shipper prevent such action before the shipment is made. Reasonable precautions in labeling ryegrass seed as to kind shall also include keeping separate each lot labeled on the basis of a separate grower's declaration, invoice, or other documents.

(b) *Name of kind.* The name of each kind of agricultural or vegetable seed is the name listed in § 201.2 (h) or (i), respectively, except that a name which has become synonymous through broad general usage may be substituted therefor, provided the name does not apply to more than one kind and is not misleading.

(c) *Hybrid designation.* Seed shall not be designated in labeling as "hybrid" seed unless it comes within the definition of "hybrid" in § 201.2(y).

(d) *Name of variety.* The name of each variety of agricultural or vegetable seed is the name determined in accordance with the following considerations:

(1) The variety name shall represent a subdivision of a kind, which is characterized by growth, plant, fruit, seed, or other characters by which it can be differentiated from other sorts of the same kind.

(2) Except as otherwise provided in this section, the name of a new variety shall be the name given by the originator or discoverer of the variety, except that in the event the originator or discoverer of a new unnamed variety, at the time seed of the variety is first introduced into channels of commerce of the United States for sale to the public, cannot or chooses not to name the variety, the name of the variety shall be the first name under which the seed is introduced into such commerce. However, if the variety name so provided is in a language not using the Roman alphabet, the variety shall be given a name by the person authorized under this paragraph to name the variety, in a language using the Roman alphabet.

(3) The variety name shall not be misleading. The same variety name shall not be assigned to more than one variety of the same kind of seed.

(4) The status under the Federal Seed Act of a variety name is not modified by the registration of such name as a trademark.

(5) Names of varieties which through broad general usage prior to the effective date of this section were recognized variety names, except for hybrid seed corn, shall be considered variety names without regard to the principles stated in paragraph (d)(2) of this section.

(6) The variety name for any variety of hybrid seed corn first introduced into commercial channels in the United States for sale prior to October 20, 1951, shall be any name used for such variety in such channels prior to that date. The variety name for any variety of hybrid seed corn first introduced into commercial channels in the United States for sale on or after October 20, 1951, shall be the name assigned in accordance with paragraphs (d)(1) through (4) of this section.

(e) *List of variety names.* Variety names for the kinds listed include the following: (Names enclosed in parentheses are synonyms. This list does not preclude the use of names not on the list but entitled to be recognized under paragraph (d) of this section).

(1) *Bean, garden.*

Abunda.
Asgrow Black Valentine (Stringless Black Valentine; Black Valentine Stringless).
Astro.
Bountiful (improved six weeks).
Bountiful Canner.
Brilliant.
Brittle Wax (Burpee's Brittle Wax; Round Pod Kidney Wax).
Bush Blue Lake.
Bush Blue Lake 274.
Cherokee (Black Valentine Wax; Cherokee Wax; Valentine Wax).
Choctaw.
Comet.
Commodore Improved (Improved Commodore).
Contender.
Cornell 14.
Davis Stringless Wax (Davis Stringless White Wax; Stringless Davis Wax).
Earligreen.
Early Harvest.
Early Gallatin.
Encore.
Extender.
Flash.
Florida Belle.
Full Measure.
Gallatin No. 50.
Gardengreen.
Giant Stringless Green Pod.
Glades.
Greencrop.
Harter.
Harvest King.
Harvester.

Higrade.
Idagreen.
Idaho Refugee.
Idelight.
Improved Higrade.
Improved Kidney Wax (improved Stringless Kidney Wax; Kidney Wax; Stringless Kidney Wax).
Improved Tendergreen (Improved New Stringless; Resistant Tendergreen).
Keystonian.
King Green.
Kinghorn Special.
Logan.
Longreen.
Lonval.
Mountaineer.
New Top Notch Golden Wax.
Orbit.
Pearlgreen.
Pencil Pod Black Wax.
Pittsfield.
Plentiful (Black Seeded Bountiful; Ferry's Plentiful).
Pompano.
Processor.
Puregold Wax.
Purple Royalty.
Ranger.
Resistant Asgrow Valentine.
Resistant Cherokee.
Rival.
Seminole.
Sensation Refugee—1066.
Sensation Refugee—1071.
Sensation Wax No. 1.
Slendergreen.
Slenderwhite.
Slimgreen.
Spartan Arrow.
Streamliner (Granda: World's Fair).
Stringless Green Pod (Burpee's Stringless Green Pod; Landreth's Stringless Green Pod).
Stringless Red Valentine (Landreth's Extra Early Stringless Red Valentine; Red Valentine Stringless).
Supergreen.
Sure Crop (Bountiful Wax; Sure Crop Black Wax; Sure Crop Stringless Wax; Sure Crop Wax; Yellow Bountiful Wax).
Tenderbest.
Tendercrop.
Tenderette.
Tendergreen (Asgrow Stringless Green Pod; New Stringless Green Pod).
Tendergreen No. 32304.
Tenderlong 15.
Tender Pod.
Tender-white.
Tennessee Green Pod (Brown Bunch; Field's First Early; Knife Blade; Mayo's Brown Bunch).
Tiny Green.
Topcrop.
Topmost.
Top Notch Golden Wax (Landreth's Top Notch Golden Wax).
Trugreen.
Unrivalled Wax.
U.S. No. 5 Refugee.
Wade.
Wadex.
White Seeded Contender.
White-seeded Tendergreen.
Woodruff's Hyscore.
Yakima.

(2) *Cabbage.*

All Head Early (Burpee's All Head Early).
All Head Select (Wisconsin All Head).
All Year.
American Drumhead Savoy (Improved American Savoy; Long Island Savoy; Perfection Drumhead Savoy; Perfection Late Savoy).
Babyhead.
Badger Ballhead.
Badger Market.
Badger Shipper.
Bonanza.
Bugner.
C. C. Cross Hybrid.
Canadian Acre.
Charleston Wakefield (Charleston; Large Charleston Wakefield; Large Jersey; Large Wakefield).
Chieftain Savoy.
Copenhagen Market Early (Condon's Cannon Ball; Copenhagen Market; Extra Early Coppenhagen Market; Viking Copenhagen).
Copenhagen Market Medium.
Danish Ballhead.
Danish Ballhead, Harris Special.
Donk's Danish Ballhead.
Early Jersey Wakefield (Extra Early Wakefield; Jersey Wakefield).
Early Marvel.
Eastern States Ballhead.
Empire Danish.
Ferry's Hollander.
Ferry's Round Dutch (Early Round Dutch).
Florida Danish.
Globe.
Glory of Enkhuizen (Enkhuizen Glory).
Golden Acre (Peerless Special; Premier).
Green Acre (Dark Green Copenhagen).
Greenback.
Harris Resistant Danish.
Improved Danish No. 22.
Improved Wisconsin All Seasons.
Improved Wisconsin Ballhead.
Jersey Queen.
Mammoth Rock Red (Mammoth Red Rock).
Marion Market.
Market Master.
Midseason Market.
Morse's Large Red.
Oakview Ballhead.
O. S. Cross.
Penn State Ballhead.

Pennvalley.
Premium Late Flat Dutch (Large Late Flat Dutch; Late Flat Dutch).
Racine Market.
Red Acre.
Red Danish.
Reed's Improved Glory.
Resistant Detroit (Detroit Resistant).
Resistant Glory.
Resistant Golden Acre (Golden Acre Resistant).
Resistant Red Acre.
Resistant Red Hollander.
Round Red Dutch.
Seneca Ballhead.
Slow Bolting Green.
Stein's Flat Dutch (Early Flat Dutch; Stein's Early Flat Dutch).
Succession (All Season; Henderson's Succession).
Wisconsin Ballhead Improved.
Wisconsin Copenhagen.
Wisconsin Golden Acre.
Wisconsin Hollander (Wisconsin No. 8; Wisconsin Hollander No. 8).
YR Charleston Wakefield.

(3) *Onions, hybrid.*

Abundance.
Alamo.
Aristocrat.
Asgrow B46.
Asgrow B47.
Asgrow W 1.
Asgrow W 3.
Asgrow W 45.
Asgrow Y 2.
Asgrow Y40.
Asgrow Y41.
Asgrow Y42.
Asgrow Y43.
Asgrow Y44.
Asgrow Y 49.
Asgrow Y 50.
Asgrow Y50K.
Asgrow Y 51.
Asgrow Y 52.
Asgrow Y 53.
Autumn Bronze.
Autumn Brown.
Autumn Chief.
Autumn Glory.
Autumn Spice.
Autumn Splendor.
Autumn Star.
Autumn Topper.
Bonanza.
Brilliance.
Bronze Perfection.
Brown Beauty.
Burpee Crystal Wax Hybrid.
Burpee Sweet Spanish Hybrid.
Burpee Yellow Globe Hybrid.
California Hybrid Red No. 1.
Castilian.
Champion.
Chieftain.
Contender.
Crystal Hybrid.
Dessex.
Early Gold.
Early Harvest.
Elba Globe.
El Capitan.
Elite.
Empire.
Empire State.
Encore.
Epoch.
Fiesta.
Golden Beauty.
Grandee.
Granex.
Granex 33.
Henry's Special.
Hickory.
Highlight.
Magnifico.
Mohawk.
Nugget.
Ontario.
Parman.
Pilot.
Pioneer.
Premier.
Pronto.
Snow White.
Spartan.
Spartan Banner.
Spartan Era.
Spartan Gem.
Sunburst.
Surprise.
Treasure.
Vaughan's Hybrid Sweet Spanish No. 1.
White Granex.
White Granite.
Yellow Spanish Hybrid P-W 160.

(4) *Soybeans.*

Acadian.
Acme.
Adams.
Agate.
Altona.
Amredo.
Amsoy.
Aoda.
Arisoy.
Arkan.
Arksoy (Early Wood's Yellow).
Arksoy 2913.
Avoyelles.
Bansei.
Barchet.
Bavender Special.
Bethel.
Bienville.
Biloxi (Brown Biloxi).
Blackhawk.
Boone.
Bossier.
Bragg.

Capital.
Cayuga.
Chame.
Charles.
Cherokee.
Chief.
Chippewa.
Chippewa 64.
Chusei.
Clark.
Clark 63.
Clemson.
C. N. S.
CNS-4.
CNS-24.
Comet.
Creole.
Crest.
Cypress No. 1.
Dare.
Davis.
Delmar.
Delsoy (Edsoy).
Delsta.
Dorman.
Dortchsoy No. 2.
Dortchsoy No. 31.
Dortchsoy No. 67.
Dunfield.
Earlyana.
Easycook.
Ebony.
Emperor.
Etum (Soy Good).
Flambeau.
Ford.
Funk Delicious.
Gatan.
Georgian.
Giant Green.
Gibson.
Goldsoy.
Granger.
Grant.
Habaro.
Haberlandt.
Hahto (Lima Soy).
Hakote.
Hampton 266.
Hardee.
Hardome.
Hark.
Harly.
Harman.
Harosoy.
Harosoy 63.
Hawkeye.
Hawkeye 63.
Hayseed.
Henry.
Herman.
Herman.
Hidatsa.
Higan.
Hill.
Hokkaido.
Hongkong.
Hood.
Illini (Green Field).
Imperial.
Improved Pelican.
Jackson.
JEW 45.
Jogun.
Kabott.
Kanrich.
Kanro.
Kanum.
Kent.
Kim.
Kingwa (Pekwa).
Kino.
Korean (Early Korean).
Kura.
Laredo.
Lee.
Lincoln.
Lindarin.
Lindarin 63.
L. Z.
Macoupin.
Madison.
Magnolia.
Majos.
Mamloxi.
Mammoth Brown (Brown; Giant Brown; Large Brown; Tarheel Brown).
Mammoth Yellow (Large Yellow; Late; Late Yellow; Mammoth; Southern; Yellow).
Mamotan.
Mamredo.
Manchu.
Manchu No. 3.
Manchu No. 606.
Manchukota.
Mandarin (Early Mandarin).
Mandarin No. 507.
Mandarin (Ottawa).
Mandell.
Mendota.
Merit.
Mingo.
Minsoy (Minnsoya).
Missoy.
Monetta.
Monroe.
Montreal Manchu.
Morse (Siegenthaler).
Mount Carmel.
Mukden.
Nanda.
Nanking.
Norchief.
Norsoy.
Ogden.
Ontario.
Otootan.
Pagoda.
Palmetto.
Patoka.
Patterson.

Peking (Black Champion; Black Sable; Essex; Extra Select Sable; Pedigreed Sable; Red Sable; Sable; Wings Royal).
Pelican.
Pennsoy.
Perry.
Pickett.
Portage.
Pridesoy No. 57.
Ralsoy.
Rebel.
Renville.
Richland.
Roanoke.
Roe.
Rokusun.
Rose Non Pop.
Ross.
S-100.
Sac.
Scioto.
Scott.
Seminole.
Semmes.
Seneca.
Shelby.
Sioux.
Smith Super.
Sousei (Super Quick).
Tanner (Brown Otootan; Red Otootan; Red Tanner).
Tastee.
Tennessee Non Pop.
Tokyo (Austrian Green; Ita Mame; Late Ita Mame; Mamotoc; Medium Ita Mame; Southern Medium Green).
Traverse.
Viking.
Virginia (Early Virginia Brown; Virginia Brown; Virginia Early Brown).
Volstate.
Wabash.
Wayne.
Willomi.
Wilson (Early Wilson; Early Wilson Black; Wilson Black; Wilson Early; Wilson Early Black).
Wisconsin Black (Early Black; Early Wisconsin Black; Extra Early Black; Wisconsin Early Black).
Wolverine.
Woods Yellow.
Yellow Gantan.
Yelnando.
Yelredo.

(5) *Striate lespedeza.*

Common.
Kobe.
Tennessee 76.

(6) *Sorghum.*

Sorghum (open-pollinated)

African Millet 65.
Ajax (Imperial Kafir).
Atlas.
Axtell.
Black Amber (Minnesota Amber; Waconia Amber; Early Amber; Early Black Amber).
Bonita.
Brawley.
Caprock.
Carman.
Coes.
Colby.
Collier (Kansas Collier).
Colman (Red Orange; Old Mexican Cane).
Combine Bonita.
Combine Hegari.
Combine Kafir-60.
Combine Sagrain.
Combine Shallu.
Combine 7078.
Crystal Drip.
Cuban.
Darset.
Darso.
Day Milo.
Double Dwarf White Sooner Milo.
Double Dwarf Yellow Milo.
Double Dwarf Yellow Sooner Milo.
Double Dwarf 38 Milo.
Dual.
Dwarf Feterita.
Dwarf Kafir 44-14 (Kafir 44-14).
Dwarf White Durra.
Dwarf Yellow Milo.
Early Hegari (Arizona Early Hegari; New Mexico Early Hegari).
Early Kalo.
Early Sumac (Kansas Sumac).
Edwards Combine.
Ellis.
Folger (Early Folger; Folger's Early).
Fremont.
Fulk Combine Kafir.
Gooseneck.
Gurno.
Hegari.
Hi-Hegari.
Hodo.
Honey (Texas Seeded Ribbon Cane).
Jo-hee.
Kansas Collier 704-D.
Kansas Orange.
Kansas Sourless.
Kansas Sourless 704-H.
Leoti (Leoti Red).
Martin (Martin Combine Milo).
Meloland.
Midak.
Midland.
Norghum.
Norkan.
Norkota.
Plainsman.
Rancher.
Red Amber.
Redbine—58.
Redbine—60.
Redbine—66.
Red Kafir.

Redlan.
Reliance.
Resistant Wheatland.
Red (Red x).
Rio.
Rox Orange (Waconia Orange; Yellow Orange; Early Orange).
Sapling.
Sart.
Schrock Kafir (Sagrain).
Shallu.
Sourless (African Millet; Sourless Orange; Sourless White Orange).
Standard Blackhull Kafir.
Sugar Drip (Golden Drip).
Sumac (Red Top).
Sumac 1712.
Sumac 6550.
Texas Milo (Texas 338).
Texioca—54.
Tracy.
Tricker.
Western Blackhull Kafir.
Westland.
Wiley.
Williams.
Winner.
89-30-S.

Sorghum, hybrid

375.
388.
400B.
400C.
400E.
400F.
401.
409.
410B.
410C.
410E.
411.
413.
AKS 614.
Amak R-10.
Amak R-12.
Apache.
Aztec.
B-32.
Beefbuilder.
Beefbuilder R.
Beefbuilder T.
C-44A.
C-44B.
C-45.
Cheyenne.
Coastal.
Coastal S.
Coastal T.
Colorado 585.
Colorado 604.
Colorado 606.
Comanche.
Crop Guard.
D-50A.
D-55.
Dairy D.
Double T.
Duet.
E-56A.
E-57.
F-60.
F-61.
F-62A.
F-63.
F-65.
F-66.
F-70.
FS-1.
FS-1A.
FS-22.
FS-38.
FS-300R.
Ga. 609.
Ga. 615.
Gaucho.
Ho-K.
Horizon 64.
Horizon 79.
Horizon 80.
Horizon F-12.
Horizon SF 20.
Kiowa.
KS 602.
KS 603.
KS 651.
KS 652.
KS 701.
Leafmaster 43.
Lindsey 92-F.
Lindsey 101-F.
Lindsey 115-F
Lindsey 722.
Lindsey 744.
Lindsey 755.
Lindsey 788.
NB 304F.
NB 305F.
NB 504
NB 505.
OK 612.
OK 613.
OK 627.
OK 632.
P.A.G. 275.
P.A.G. 304.
P.A.G. 400.
P.A.G. 405.
P.A.G. 425.
P.A.G. 428.
P.A.G. 430.
P.A.G. 435.
P.A.G. 465.
P.A.G. 494.
P.A.G. 515.
P.A.G. 605.
P.A.F. 625.
Pronto.
R-106.
R-108.
R-211.
R-212.
R-214.

Raider B.
Ranger.
Ranger A.
Ranger B.
Redhead.
Red Raider.
Red Raider A.
Rico.
Rocket.
Rocket A.
RS 301 F.
RS 302 F.
RS 303 F.
RS 501.
RS 590.
RS 610.
RS 617.
RS 616.
RS 619.
RS 621.
RS 622.
RS 623.
RS 624.
RS 625.
RS 626.
RS 630.
RS 640.
RS 650.
RS 661.
RS 671.
RS 681.
RS 702.
S–210.
S–212.
S–214.
Sandfighter.
SD 252 F.
SD 441.
SD 451.
Shorty 33.
Shorty 40.
Shorty 50.
Silo King.
Tasco.
T-700.
T-E 55.
T-E 66.
T-E 77.
T-E Goldmaker.
T-E Grainmaster.
T-E Silomaker.
T-E Yieldmaker.
Texas 601.
Texas 611.
Texas 620.
Texas 660.
Titan.
Titan R.
Triple T.
Ute.
WAC 700.
Windbreaker.

(7) *Broomcorn.*

Black Spanish (Black Jap; Extra Early Japanese; Japanese).
Black Spanish Dwarf.
Evergreen (Austrian; Illinois Favorite; Standard; White Italian).
Evergreen Dwarf (Acme; Dwarf Evergreen; Long, Brush Dwarf; Western Dwarf).
Miller's No. 8.
Okaw.
Pfeifer Head No. 125.
Rennel's Dwarf No. 11.
Scarborough.
No. 7 Scarborough Dwarf (Miller's No. 7).

(8) *Sorghum-sudangrass hybrids.*

Ga-Su.
Good Grazin.
Grazer.
Grazer 21.
Honey Sweet.
Hi-Dan 35.
Hi-Dan 37.
Hi-Dan 38.
Horizon P-100.
Horizon SP-110.
Hy-King-Su.
Hy-Su.
Kow Kandy.
L Grace 200.
Lindsey 77F.
Morgain.
Grazer 22.
Grazer A.
Greenlan.
Green M.
NB 280S.
Red "T" Graze.
S-100.
Sudine.
Su-Graze.
Sure Graze.
Sweet Sioux.
SX-11.
SX-12.
T-E Grazemaster.
T-E Haygrazer.

[20 FR 7928, Oct. 21, 1955]

EDITORIAL NOTE: For Federal Register citations affecting § 201.34, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 201.35 Blank spaces.

Blank spaces on the label shall be deemed to imply the word "None," when such interpretation is reasonable.

[5 FR 32, Jan. 4, 1940]

§ 201.36 The words "free" and "none."

The words "free" and "none" shall be construed to mean that none were found in a test complying with the methods set forth in §§ 201.45—201.52.

[5 FR 32, Jan. 4, 1940]

MODIFYING STATEMENTS

§ 201.36a Disclaimers and nonwarranties.

A disclaimer, nonwarranty, or limited warranty used in any invoice or other labeling, or advertisement shall not directly or indirectly deny or modify any information required by the act or the regulations in this part.

[15 FR 2394, Apr. 28, 1950]

ADVERTISING

§ 201.36b Name of kind and variety; designation as hybrid.

(a) The representation of the name of a kind or kind and variety of seed in any advertisement subject to the act shall be confined to the name of the kind or kind and variety determined in accordance with § 201.34. The name shall not have associated therewith words or terms that create a misleading impression as to the history or characteristics of the kind or kind and variety. Descriptive terms and firm names may be used in kind or variety names provided the descriptive terms or firm names are a part of the name or variety of seed; for example, Stringless Green Pod, Detroit Dark Red, Black Seeded Simpson and Henderson Bush Lima. Seed shall not be designated as hybrid seed in any advertisement subject to the act unless it comes within the definition of "hybrid" in § 201.2(y).

(b) Terms descriptive as to color, shape, size, habit of growth, disease-resistance, or other characteristics of the kind or variety may be associated with the name of the kind or variety provided it is done in a manner which clearly indicates the descriptive term is not a part of the name of the kind or variety; for example, Oshkosh pepper (yellow), Copenhagen Market (round head) cabbage, and Kentucky Wonder pole bean.

(c) Terms descriptive of quality or origin and terms descriptive of the basis for representations made may be associated with the name of the kind or variety: *Provided*, That the terms are clearly identified as being other than part of the name of the kind or variety; for example, Fancy quality redtop, Idaho origin alfalfa, and Grower's affidavit of variety Atlas sorghum.

(d) Terms descriptive of the manner or method of production or processing the seed (for example, certified, registered, delinted, scarified, treated, and hulled), may be associated with the name of the kind or variety of seed, providing such terms are not misleading.

(e) Brand names and terms taken from trademarks may be associated with the name of the kind or variety of seed as an indication of source: *Provided*, That the terms are clearly identified as being other than a part of the name of the kind or variety; for example, Ox Brand Golden Cross sweet corn. Seed shall not be advertised under a trademark or brand name in any manner that may create the impression that the trademark or brand name is a variety name. If seed advertised under a trademark or brand name is a mixture of varieties and if the variety names are not stated in the advertising, a description similar to a varietal description or a comparison with a named variety shall not be used if it creates the impression that the seed is of a single variety.

[21 FR 4652, June 27, 1956, as amended at 32 FR 12780, Sept. 6, 1967]

§ 201.36c Hermetically-sealed containers.

The 5-month limitation on the date of test in §§ 201.22 and 201.30a shall not apply when the following conditions have been met:

(a) The seed was packaged within 9 months after harvest;

(b) The container used does not allow water vapor penetration through any wall, including the seals, greater than 0.05 grams of water per 24 hours per 100 square inches of surface at 100° F. with a relative humidity on one side of 90 percent and on the other side of 0 percent. Water vapor penetration or WVP is measured by the standards of the U.S. Bureau of Standards as:

gm. H_2O/24 hr./100 sq. in./100° F./90% RH V.0% RH;

(c) The seed in the container does not exceed the percentage of moisture, on a wet weight basis, as listed below:

Agricultural seeds	Percent
Beet, field	7.5
Beet, sugar	7.5
Bluegrass, Kentucky	6.0
Clover, crimson	8.0
Fescue, red	8.0
Bean	7.0
Bean, lima	7.0
Beet	7.5
Broccoli	5.0
Brussels sprouts	5.0
Cabbage	5.0
Carrot	7.0
Cauliflower	5.0
Celeriac	7.0
Celery	7.0
Chard, Swiss	7.5
Chinese cabbage	5.0
Chives	6.5
Collards	5.0
Corn, sweet	8.0
Cucumber	6.0
Eggplant	6.0
Kale	5.0
Ryegrass, annual	8.0
Ryegrass, perennial	8.0
All others	6.0
Kohlrabi	5.0
Leek	6.5
Lettuce	5.5
Muskmelon	6.0
Mustard	5.0
Onion	6.5
Onion, Welsh	6.5
Parsley	6.5
Parsnip	6.0
Pea	7.0
Pepper	4.5
Pumpkin	6.0
Radish	5.0
Rutabaga	5.0
Spinach	8.0
Squash	6.0
Tomato	5.5
Turnip	5.0
Watermelon	6.5
All others	6.0

(d) The container is conspicuously labeled in not less than 8 point type to indicate (1) that the container is hermetically sealed, (2) that the seed has been preconditioned as to moisture content, and (3) the calendar month and year in which the germination test was completed.

(e) The percentage of germination of vegetable seed at the time of packaging was equal to or above the standards in § 201.31.

[32 FR 12780, Sept. 6, 1967]

INSPECTION

§ 201.37 Authorization.

When authorized by the Administrator of the Consumer and Marketing Service, or by such other person as may be designated for the purpose, Federal employees and qualified State officials, for the purposes of the act, may draw samples of, secure information and inspect records pertaining to, and otherwise inspect seeds and screenings subject to the act.

[15 FR 2394, Apr. 28, 1950]

§ 201.38 Importations.

Prior to release into the commerce of the United States, imported seed and screenings shall be inspected as provided in §§ 201.208 and 201.209.

[5 FR 32, Jan. 4, 1940]

SAMPLING IN THE ADMINISTRATION OF THE ACT

§ 201.39 General procedure.

(a) In order to secure a representative sample, equal portions shall be taken from evenly distributed parts of the quantity of seed or screenings to be sampled. Access shall be had to all parts of that quantity. When more than one trierful of seed is drawn from a bag, different paths shall be followed. When more than one handful is taken from a bag, the handfuls shall be taken from well-separated points.

(b) For free-flowing seed in bags or bulk, a probe or trier shall be used. For small free-flowing seed in bags a probe or trier long enough to sample all portions of the bag should be used.

(c) Non-free-flowing seed, such as certain grass seed, uncleaned seed, or screenings, difficult to sample with a proble or trier, shall be sampled by thrusting the hand into the bulk and withdrawing representative portions. The hand is inserted in an open position and the fingers are held closely together while the hand is being inserted and the portion withdrawn.

(d) As the seed or screenings are sampled, each portion shall be examined. If there appears to be a lack of uniformity, the portions shall not be combined into a composite sample but shall be retained as separate samples or combined to form individual-container samples to determine such lack of uniformity as may exist.

(e) When the portions appear to be uniform, they shall be combined to form a composite sample.

[5 FR 32, Jan. 4, 1940, as amended at 10 FR 9950, Aug. 11, 1945; 25 FR 8769, Sept. 13, 1960; 26 FR 10035, Oct. 26, 1961]

§ 201.40 Bulk.

Bulk seeds or screenings shall be sampled by inserting a long probe or thrusting the hand into the bulk as circumstances require in at least seven uniformly distributed parts of the quantity being sampled. At least as many trierfuls or handfuls shall be taken as the minimum which would be required for the same quantity of seed or screenings in bags of a size customarily used for such seed or screenings.

[5 FR 32, Jan. 4, 1940, as amended at 26 FR 10035, Oct. 26, 1961]

§ 201.41 Bags.

(a) For lots of six bags or less, each bag shall be sampled. A total of at least five trierfuls shall be taken.

(b) For lots of more than six bags, five bags plus at least 10 percent of the number of bags in the lot shall be sampled. (Round off numbers with decimals to the nearest whole number, raising 0.5 to the next whole number.) Regardless of the lot size it is not necessary that more than 30 bags be sampled.

(c) Samples shall be drawn from unopened bags except under circumstances where the identity of the seed has been preserved.

[5 FR 32, Jan. 4, 1940, as amended at 26 FR 10035, Oct. 26, 1961]

§ 201.42 Small containers.

In sampling seed in small containers that it is not practical to sample as required in § 201.41, a portion of one unopened container or one or more entire unopened containers may be taken to supply a minimum size sample, as required in § 201.43.

[30 FR 7888, June 18, 1965]

§ 201.43 Size of sample.

The following are minimum sizes of samples of agricultural seed, vegetable seed and screenings to be submitted for analysis, test, or examination:

(a) Two ounces of grass seed not otherwise mentioned, white or alsike clover, or seeds not larger than these.

(b) Five ounces of red or crimson clover, alfalfa, lespedeza, ryegrass, bromegrass, millet, flax, rape, or seeds of similar size.

(c) One pound of Sudan grass, proso, hemp or seeds of similar size.

(d) Two pounds of cerals, sorghum, vetch, or seeds of similar or larger size.

(e) Two quarts of screenings.

(f) Vegetable seed samples shall consist of at least 400 seeds.

[10 FR 9950, Aug. 11, 1945, as amended at 15 FR 2394, Apr. 28, 1950; 41 FR 20156, May 17, 1976]

§ 201.44 Forwarding samples.

Before being forwarded for analysis, test, or examination, the containers of samples shall be properly sealed and identified in such manner as may be prescribed by the Consumer and Marketing Service.

[5 FR 32, Jan. 4, 1940, as amended at 10 FR 13489, Nov. 1, 1945]

PURITY ANALYSIS IN THE ADMINISTRATION OF THE ACT

§ 201.45 Obtaining the working sample.

(a) The working sample on which the actual analysis is made shall be taken from the submitted sample in such a manner that it will be representative.

(b) The sample shall be repeatedly divided to the weight to be used for the working sample. Some form of efficient mechanical divider should be used. To avoid damaging large seeds, a divider should be used which will prevent the seeds from falling great distances onto hard surfaces. In case the proper mechanical divider cannot be used or is not available, the sample shall be thoroughly mixed and placed in a pile and the pile shall be repeatedly divided into halves until a sample of the desired weight remains.

[5 FR 32, Jan. 4, 1940, as amended at 20 FR 7929, Oct. 21, 1955; 25 FR 8769, Sept. 13, 1960]

§ 201.46 Weight of working sample.

(a) *Unmixed seed.* The working samples for purity analysis and noxious-weed seed examination of unmixed seed shall be at least the weights set forth in table 1.

(b) *Mixtures consisting of one predominant kind of seed or a group of kinds of similar size.* The weights of the purity and noxious-weed seed working samples in this category shall be determined by the kind or group of kinds which compromise more than 50 percent of the sample.

(c) *Mixtures consisting of two or more kinds or groups of kinds of different sizes, none of which comprise over 50 percent of the sample.* The weights of the purity working samples in this category shall be the weighted averages (to the nearest half gram) of the weights listed in table 1 for each of the kinds which comprise the sample determined by the following method: (1) Multiply the percentage of each component in the mixture (rounded off to the nearest whole number) by the sample sizes specified in column 2, table 1, (2) add all these products, (3) total the percentages of all components of the mixtures, and (4) divide the sum in paragraph (c)(2) of this section by the total in paragraph (c)(3) of this section. If the approximate percentage of the components of a mixture are not known they may be estimated. The weight of the noxious-weed seed working sample shall be determined by multiplying the weight of the purity working sample by 10 or by calculating the weighted average in the same manner described above for the purity working sample.

TABLE 1—WEIGHT OF WORKING SAMPLE

Name of seed	Minimum weight for purity analysis (*Grams*)	Minimum weight for noxious-weed seed examination (*Grams*)	Approximate number of seeds per gram (*Grams*)
AGRICULTURAL SEED			
Alfalfa—*Medicago sativa*	5	50	500
Alfilaria—*Erodium cicutarium*	5	50	440
Alyceclover—*Alysicarpus vaginalis*	5	50	665
Bahiagrass—*Paspalum notatum:*			
Var. Pensacola	5	50	600
All other vars	7	50	365
Barley—*Hordeum vulgare*	100	500	30
Barrelclover—*Medicago tribuloides*	50	300	
Bean:			
Adzuki—*Vigna angularis*	200	500	11
Field—*Phaseolus vulgaris*	500	500	4
Mung—*Vigna radiata*	100	500	24
Beet, field—*Beta vulgaris*	50	500	55
Beet, sugar—*Beta vulgaris*	50	500	55
Beggarweed, Florida—*Desmodium tortuosum*	5	50	440
Bentgrass:			
Colonial (incl. Astoria and Highland)—*Agrostis tenuis*	¼	2.5	13,000
Creeping—*Agrostis stolonifera var. plaustris*	¼	2.5	13.515
Velvet—*Agrostis canina*	¼	2.5	18,160
Bermudagrass—*Cynodon dactylon*	1	10	3,930
Bermudagrass, giant—*Cynodon dactylon var. ridues*	1	10	2,950
Bluegrass:			
Bulbous—*Pao bulbosa*	4	40	565
Canada—*Poa compressa*	½	5	5,050
Glaucantha—*Poa glaucantha*	1	10	
Kentucky (all vars.)— *Poa pratensis*	1	10	3,060
Nevada—*Poa nevadenis*	1	10	2,305
Rough—*Poa trivialis*	½	5	4,610
Texas—*Poa arachnifera*	1	10	2,500
Wood—*Poa nemoralis*	½	5	4,330
Bluestem:			
Big—*Andropogon gerardi*	7	70	320
Little—*Schizachyrium scoporium*	5	50	525
Sand—*Andropogon hallii*	10	100	215
Yellow—*Bothriochloa ischaemum*	1	10	1,945

TABLE 1—WEIGHT OF WORKING SAMPLE—Continued

Name of seed	Minimum weight for purity analysis (*Grams*)	Minimum weight for noxious-weed seed examination (*Grams*)	Approximate number of seeds per gram (*Grams*)
Brome:			
Field—*Bromus arvensis*	5	50	465
Meadow—*Bromus biebersteinii*	13	130	19
Mountain—*Bromus marginatus*	20	200	140
Smooth—*Bromus inermis*	7	70	315
Broomcorn—*Sorghum bicolor*	40	400	60
Buckwheat—*Fagopyrum esculentum*	50	500	45
Buffalograss—*Buchloe dactyloides*:			
(Burs)	20	200	110
(Caryopses)	3	30	740
Buffelgrass—*Penchrus ciliaris*:			
(Fascicles)	6	66	365
(Caryopses)	2	20	1,940
Burclover, California—*Medicago polymorpha* (in bur)	50	500	
Burclover, California—*Medicago polymorpha* (out of bur)	7	70	375
Burclover, spotted—*Medicago arabica* (in bur)	50	500	50
Burclover, spotted—*Medicago arabica* (out of bur)	5	50	550
Burnet, little—*Sanguisorba minor*	25	250	110
Buttonclover—*Medicago orbicularis*	7	70	365
Canary grass—*Phalaris canariensis*	20	200	150
Canary grass, reed—*Phalaris arundinacea*	2	20	1,185
Carpetgrass—Axonopus affinis	1	10	2,230
Castorbean—*Ricinus communis*	500	500	5
Chess, soft—*Bromus mollis*	5	50	555
Chickpea—*Cicer arietinum*	500	500	2
Clover:			
Alsike—*Trifolium hybridum*	2	20	1,500
Arrowhead—*Trifolium vesiculosum*	3	30	90
Berseem—*Trifolium alexandrinum*	5	50	455
Cluster—*Trifolium glomeratum*	1	10	2,925
Crimson—*Trifolium incarnatum*	10	100	330
Kenya—*Trifolium semipilosum*	2	20	
Ladino—*Trifolium repens*	2	20	1,935
Lappa—*Trifolium lappaceum*	2	20	150
Large hop—*Trifolium campestre*	1	10	5,435
Persian—*Trifolium resupinatum*	2	20	1,415
Red—*Trifolium pratense*	5	50	600
Rose—*Trifolium hirtum*	7	70	360
Small hop (Suckling)—*Trifolium dubium*	2	20	1,950
Strawberry—*Trifolium fragiferum*	5	50	635
Sub—*Trifolium subterraneum*	25	250	120
White—*Trifolium repens*	2	20	1,500
Corn:			
Field—*Zea mays*	500	500	3
Pop—*Zea mays*	500	500	
Cotton—*Gossypium spp*	300	500	8
Cowpea—*Vigna unguiculata subsp. unguiculata*	300	500	8
Crambe—*Crambe abyssinica*	25	250	
Crested dogtail—*Cynosurus cristatus*	2	20	1,900
Crotalaria:			
Lance—*Crotalaria lanceolata*	7	70	375
Showy—*Crotalaria spectabilis*	25	250	80
Slenderleaf—*Crotalaria brevidens var. intermedia*	10	100	205
Striped—*Crotalaria striata (C. pallida)*	10	100	215
Sunn—*Crotalaria juncea*	75	500	35
Crownvetch—*Coronilla varia*	10	100	305
Dallisgrass—*Paspalum dilatatum*	4	40	620
Dichondra—*Dichondra repens*	5	50	470
Dropseed, sand—*Sporobolus cryptandrus*	¼	2.5	12,345
Emmer—*Triticum dicoccum*	100	500	25
Fescue:			
Chewings—*Festuca rubra subsp. commutata*	3	30	900
Hair—*Festuca tenuifolia*	1	10	
Hard—*Festuca longifolia*	2	20	1,305

TABLE 1—WEIGHT OF WORKING SAMPLE—Continued

Name of seed	Minimum weight for purity analysis (*Grams*)	Minimum weight for noxious-weed seed examination (*Grams*)	Approximate number of seeds per gram (*Grams*)
Meadow—*Festuca pratensis*	5	50	495
Red—*Festuca rubra subsp. rubra*	3	30	900
Sheep—*Festuca ovina var. ovina*	2	20	1,165
Tall—*Festuca arundinacea*	5	50	455
Flax—*Linum usitatissimum*	15	150	180
Grama:			
Blue—*Bouteloua gracilis*	6	20	1,595
Side-oats—*Bouteloua curtipendula*			
(Other than caryopses)	6	60	350
(Caryopses)	2	20	1,605
Guar—*Cyamopsis tetragonoloba*	75	500	35
Guineagrass—*Panicum maximum*	2	20	2,205
Hardinggrass—*Phalaris stenoptera*	3	30	750
Hemp—*Cannabis sativa*	50	500	45
Indiangrass, yellow—*Sorghastrum nutans*	7	70	395
Indigo, hairy—*Indigofera hirsuta*	7	70	435
Japanese lawngrass—*Zoysia japonica*	2	20	1,325
Johnsongrass—*Sorghum halepense*	10	100	265
Kudzu—*Pueraria lobata*	25	250	80
Lentil—*Lens culinaris*	120	500	14–23
Lespedeza:			
Korean—*Lespedeza stipulacea*	5	50	525
Sericea or Chinese—*Lespedeza cuneata* (L. sericea)	3	30	820
Siberian—*Lespedeza juncea*	3	30	820
Striate (Common, Kobe, Tenn. 76) *Lespedeza striata*	5	50	750
Lovegrass, sand—*Eragrostis trichodes*	1	10	3,585
Lovegrass, weeping—*Eragrostis curvula*	1	10	3,270
Lupine:			
Blue—*Lupinus angustifolius*	500	500	7
White—*Lupinus albus*	500	500	7
Yellow—*Lupinus lutus*	300	500	9
Manilagrass—*Zoysia matrella*	2	20	
Meadow foxtail—*Alopecurus pratensis*	3	30	893
Medick, black—*Medicago lupulina*	5	50	585
Milkvetch—*Astragalus cicer*	10	100	295
Millet:			
Browntop—*Brachiaria ramosa*	8	80	315
Foxtail, Such as Common, White Wonder, German, Hungarian, Siberian, or Golden—*Setaria italica*	5	50	480
Japanese—*Echinochloa crusgalli var. frumentacea*	9	90	315
Pearl—*Pennisetum americanum*	15	150	180
Proso—*Panicum miliaceum*	15	150	185
Molassesgrass—*Melinis minutiflora*	½	5	7,750
Mustard:			
Black—*Brassica nigra*	2	20	1,255
India—*Brassica juncea*	5	50	624
White—*Sinapsis alba*	15	150	160
Napiergrass—*Pennisetum purpureum*	5	50	
Oat—*Avena spp*	75	500	35–50
Oatgrass, tall—*Arrhenatherum elatius*	6	60	415
Orchardgrass—*Dactylis glomerata*	3	30	945
Panicgrass, blue—*Panicum antidotale*	2	20	1,370
Panicgrass, green—*Panicum maximum var. trichoglume*	2	20	1,305
Peanut—*Arachis hypogaea*	500	500	1–3
Pea, field—*Pisum sativum var. arvense*	500	500	4
Rape:			
Annual—*Brassica napus var. annua*	7	70	345
Bird—*Brassica rapa*	7	70	425
Turnip—*Brassica rapa*	5	50	535
Winter—*Brassica napus var. biennis*	10	100	230
Redtop—*Agrostis gigantea*	¼	2.5	10,695
Rescuegrass—*Bromus unioloides*	20	200	115
Rhodesgrass—*Chloris gayana*	1	10	4,725
Rice—*Oryza sativa*	50	500	65

TABLE 1—WEIGHT OF WORKING SAMPLE—Continued

Name of seed	Minimum weight for purity analysis (*Grams*)	Minimum weight for noxious-weed seed examination (*Grams*)	Approximate number of seeds per gram (*Grams*)
Ricegrass, Indian—*Oryzopsis hymenoides*	7	70	355
Roughpea—*Lathyrus hirsutus*	75	500	40
Rye—*Secale cerale*	75	500	40
Ryegrass:			
Annual (Italian)—*Lolium multiflorum*	5	50	420
Perennial—*Lolium perenne*	5	50	530
Wimmera—*Lolium rigidum*	5	50	
Safflower—*Carthamus tinctorius*	100	500	30
Saltbush, fourwing—*Atriplex canescens*	15	150	165
Sainfoin—*Onobrychis viciifolia*	50	500	50
Sesame—*Sesamum indicum*	7	70	360
Sesbania—*Sesbania exaltata*	25	250	105
Smilo—*Oryzopsis miliacea*	2	20	2,010
Sorghum—*Sorghum bicolor*	50	500	55
Sorghum almum—*Sorghum almum*	15	150	150
Sorghum—sudangrass *S. bicolor* × *S. sudanense*	50	500	55
Sorgrass [1]	15	150	135
Sourclover—*Melilotus indica*	5	50	660
Soybean—*Glycine max*	500	500	6–13
Spelt—*Triticum spelta*	100	500	25
Sudangrass—*Sorghum sudanense*	25	250	100
Sunflower (Cult.)—*Helianthus annuus*	100	500	
Sweetclover:			
White—*Melilotus alba*	5	50	570
Yellow—*Melilotus officinalis*	5	50	570
Sweet vernalgrass—*Anthoxanthum odoratum*	2	20	1,600
Switchgrass—*Panicum virgatum*	4	40	57
Timothy—*Phleum pratense*	1	10	2,565
Timothy, turf—*Phleum nodosum*	1	10	2,565
Tobacco—*Nicotiana tabacum*	½	5	15,625
Trefoil:			
Bib—*Lotus uliginosus* (*L. major*)	2	20	1,945
Birdsfoot—*Lotus corniculatus*	3	30	815
Triticale—× *triticosecale*	100	500	
Vaseygrass—*Paspalum urvillei*	3	30	970
Veldtgrass—*Ehrharta calycina*	4	40	655
Velvetbean—*Mucuna deeringiana*	500	500	2
Velvetgrass—*Holcus lanatus*	1	10	3,360
Vetch:			
Common—*Vicia sativa subsp. sativa*	150	500	19
Hairy—*Vicia villosa*	75	500	35
Hungarian—*Vicia pannonica*	100	500	24
Monantha—*Vicia articulata* (*V. monantha*)	100	500	
Narrowleaf—*Vicia sativa subsp. nigra*	50	500	60
Purple—*Vicia benghalensis*	100	500	22
Woolypod—*Vicia brevidens*	100	500	25
Wheat:			
Common—*Triticum aestivum*	100	500	25
Club—*Triticum compactum*	100	500	25
Durum—*Triticum durum*	100	500	25
Polish—*Triticum polonicum*	100	500	25
Poulard—*Triticum turgidum*	100	500	25
Wheat X Agrotricum—*Triticum X Agrotriticum*	65	500	38
Wheatgrass:			
Beardless—*Agropyron spicatum f. inerme*	8	80	275
Fairway crested—*Agropyron cristatum*	4	40	685
Standard crested—*Agropyron desertorum*	5	50	425
Intermediate—*Agropyron intermedium*	15	150	175
Pubescent—*Agropyron intermedium var. tricophorum*	15	150	180
Siberian—*Agropyron sibiricum*	10	50	
Slender—*Agropyron trachycaulum*	7	70	295
Streambank—*Agropyron riparium*	10	50	370
Tall—*Agropyron elongatum*	15	150	165
Western—*Agropyron smithii*	10	100	250

TABLE 1—WEIGHT OF WORKING SAMPLE—Continued

Name of seed	Minimum weight for purity analysis (*Grams*)	Minimum weight for noxious-weed seed examination (*Grams*)	Approximate number of seeds per gram (*Grams*)
Wildrye:			
Canada—*Flymus canadensis*	11	110	190
Russian—*Elymus junceus*	6	60	360
VEGETABLE SEED			
Artichoke—*Cynara scolymus*	100	500	24
Asparagus—*Asparagus officinalis*	100	500	25
Asparagusbean—*Vigna unzuiculata subsp. sesquipedalis*	300	500	8
Beans:			
Garden—*Phaseolus vulgaris*	500	500	4
Lima—*Phaseolus lunatus*	500	500	2
Runner—*Phaseolus coccineus*	500	500	1
Beet—*Beta vulgaris var. vulgaris*	50	300	60
Broadbean—*Vicia faba*	500	500	
Broccoli—*Brassica oleracea var. botrytis*	10	50	315
Brussels sprouts—*Brassica oleracea var. gemmifera*	10	50	315
Burdock, great—*Arctium lappa*	15	150	
Cabbage—*Brassica oleracea var. capitata*	10	50	315
Cabbage, Chinese (Petsai)—*Brassica pekinensis*	5	50	635
Cabbage, tronchuda—*Brassica oleracea var. tronchuda*	10	100	
Cardoon—*Cynara cardunculus*	100	500	
Carrot—*Daucus carota*	3	50	825
Cauliflower—*Brassica oleracea var. botrytis*	10	50	315
Celeriac—*Apium graveolens var. rapaceum*	1	25	2,520
Celery—*Apium graveolens var. dulce*	1	25	2,520
Chard, Swiss—*Beta vulgaris var. cicla*	50	300	60
Chicory—*Cichorium intybus*	3	50	940
Chives—*Allium schoenophrasum*	5	50	
Citron—*Citrullus lanatus var. citroides*	200	500	11
Collards—*Brassica oleracea var. acephala*	10	50	315
Corn, sweet—*Zea mays*	500	500	
Cornsalad—*Valerianella locusta:*			
Vars. Fullhearted and Dark Green Fullhearted	5	50	
All other varieties	10	50	380
Cowpea—*Vigna unguiculata subsp. unguiculata*	300	500	8
Cress:			
Garden—*Lepidium sativum*	5	50	425
Upland—*Barbarea verna*	2	35	1,160
Water—*Nosturtium officinale*	1	25	5,170
Cucumber—*Cucumis sativus*	75	500	40
Dandelion—*Taraxacum officinale*	2	35	1,240
Eggplant—*Solanum melongena*	10	50	230
Endive—*Cichorium endivia*	3	50	940
Gherkin, West India—*Cucumis anguria*	16	160	153
Kale—*Brassica oleracea var. acephala*	10	50	315
Kale, Chinese—*Brassica oleracea var. alboglabra*	10	50	
Siberian—*Brassica napus var. pabularia*	10	50	
Kohlrabi—*Brassica oleracea var. gongylodes*	10	50	315
Leek—*Allium ampeloprasum*	7	50	395
Lettuce—*Lactuca sativa*	3	50	890
Muskmelon (cantaloupe)—*Cucumis melo*	50	500	45
Mustard, India—*Brassica juncea*	5	50	625
Mustard, spinach—*Brassica perviridis*	5	50	535
Okra—*Ablemoschus esculentus* (*Hibiscus esculentus*)	100	500	19
Onion—*Allium cepa*	7	50	340
Onion, Welsh—*Allium fistulosum*	10	50	
Pak-choi—*Brassica chinensis*	5	50	635
Parsley—*Petroselinum crispum*	5	50	650
Parsnip—*Pastinaca sativa*	5	50	430
Pea—*Pisum sativum*	500	500	3
Pepper—*Capsicum spp*	15	150	165
Pumpkin—*Cucurbita pepo*	500	500	5
Radish—*Raphanus sativus*	30	300	75
Rhubarb—*Rheum rhaponticum*	50	300	60
Rutabaga—*Brassica napus var. napobrassica*	5	50	430

TABLE 1—WEIGHT OF WORKING SAMPLE—Continued

Name of seed	Minimum weight for purity analysis (*Grams*)	Minimum weight for noxious-weed seed examination (*Grams*)	Approximate number of seeds per gram (*Grams*)
Salsify—*Tragopogon porrifolius*	50	300	65
Sorrel—*Rumex acetosa*	2	35	1,080
Soybean—*Glycine max*	500	500	6–13
Spinach—*Spinacia oleracea*	25	150	100
Spinach, New Zealand—*Tetragonia tetragoniodes*	200	500	13
Squash—*Cucurbita moschata* and *C. maxima*	200	500	14
Tomato—*Lycopersicon esculentum*	5	50	405
Tomato, husk—*Physalis pubescens*	2	35	1,240
Turnip—*Brassica rapa*	5	50	535
Watermelon—*Citrullus lanatus*	200	500	11

[1] Rhizomatous derivatives of a johnsongrass × sorghum cross or a johnsongrass × sudangrass cross.

[25 FR 8769, Sept. 13, 1960, and 30 FR 7888, June 18, 1965, as amended at 32 FR 12780, Sept. 6, 1967; 35 FR 6108, Apr. 15, 1970; 38 FR 12730, May 15, 1973; 41 FR 20156, May 17, 1976; 46 FR 53635, Oct. 29, 1981]

§ 201.47 Separation.

(a) The working sample shall be weighed in grams to four significant figures and shall then be separated into four parts: (1) Kind or variety to be considered pure seed, (2) other crop seed, (3) weed seed, and (4) inert matter. The components shall be weighed in grams to the same number of decimal places as the working sample. The percentage of each part shall be determined to two decimal places.

(b) Aids for the classification of pure seed, other crop seed, weed seed, and inert matter may include visual examination, use of transmitted light (diaphanoscope), or specific gravity (seed blowers). Specific instructions for classification of the various components are given in §§ 201.47a to 201.51, inclusive.

(c) The components shall be weighed and percentages calculated as follows:

(1) For sample sizes less than 25 grams, all four components shall be weighed; the percentages shall be based on the sum of these weights and not on the original weight. The sum of these weights shall be compared with the original weight of the working sample as a check against the loss of material, or other errors.

(2) For sample sizes of 25 grams or more, the components—other crop seed, weed seed, and inert matter—shall be weighed separately and their percentages determined by dividing these weights by the original weight of the working sample. The pure seed need not be weighed; its percentage may be determined by subtracting the sum of the percentages of the other three components from 100.

(d) When the working sample consists of two or more similar kinds or varieties which would be difficult to separate in the entire sample, it is permissible to weigh the similar kinds or varieties together as one component and make the separation on a reduced portion of the sample. At least 400 seeds or an equivalent weight shall be taken indiscriminately from the pure seed component and the separation made on this portion. The proportion of each kind present shall then be determined by weight and from this the percentage in the entire sample shall be calculated.

(e) The Uniform Blowing Procedure described in § 201.51a(a) shall be used for the separation of pure seed and inert matter in seeds of Kentucky bluegrass (Poa pratensis), Canada bluegrass (P. compressa), rough bluegrass (P. trivialis), "Pensacola" variety of bahiagrass (Paspalum notatum), and orchardgrass (Dactylis glomerata).

[25 FR 8770, Sept. 13, 1960, as amended at 30 FR 7890, June 18, 1965; 46 FR 53635, Oct. 29, 1981]

§ 201.47a Seed unit.

The seed unit is the structure usually regarded as a seed in planting practices and in commercial channels. The seed unit may consist of one or more of the following structures:

(a) True seeds;

(b) For the grass family:

(1) Caryopses and single florets;

(2) Multiple florets and spikelets in tall oatgrass (Arrhenatherum elatius), oat (Avena spp.), gramas (Bouteloua spp.), rhodesgrass (Chloris gayana), barley (Hordeum vulgare), and bluegrass (Poa spp.);

(3) Entire spikelets in Agrostis (Agrostis spp.), Panicum (Panicum spp.), and foxtail millet (Setaria italica). Entire spikelets which may have attached rachis segments, pedicels, and sterile spikelets in bluestems (Andropogon spp., Bothriochloa ischaemum and Schizachyrium scoparium), Sorghum (Sorghum spp.), and yellow indiangrass (Sorghastrum nutans);

(4) Spikelet groups that disarticulate as units with attached rachis and internodes in bluestems (Andropogon spp., Bothriochloa ischaemum and Schizachyrium scoparium), side-oats grama (Bouteloua curtipendula), and yellow indiangrass (Sorghastrum nutans);

(5) Fascicles of buffelgrass (Cenchrus ciliaris) consisting of bristles and spikelets;

(6) Burs of buffalograss (Buchloe dactyloides);

(7) Bulblets of bulbous bluegrass (Poa bulbosa);

(8) Multiple units as defined in § 201.51a(b)(1).

(c) Dry indehiscent fruits in the following plant families: Buckwheat (Polygonaceae), sunflower (Compositae), geranium (Geraniaceae), goosefoot (Chenopodiaceae), and valerian (Valerianaceae);

(d) One- and two-seeded pods of small-seeded legumes (Leguminosae), burs of the burclovers (Medicago arabica, M. polymorpha), and pods of peanuts (Arachis hypogaea). (This does not preclude the shelling of small-seeded legumes for purposes of identification.) Pods of legumes normally containing more than two seeds, when occurring incidentally in the working sample, should be hulled if the kind is hulled when marketed;

(e) Fruits or half fruits in the carrot family (Umbelliferae);

(f) Nutlets in the following plant families: Borage (Boraginaceae), mint (Labiatae), and vervain (Verbenaceae);

(g) "Seed balls" or portions thereof in multigerm beets (Beta vulgaris), and fruits with accessory structures such as occur in New Zealand spinach (Tetragonia tetragonioides).

[46 FR 53636, Oct. 29, 1981]

§ 201.47b Working samples.

The purity working sample is the sample on which the purity analysis is made. The noxious-weed seed working sample is the sample on which the noxious-weed seed examination is made.

[20 FR 7930, Oct. 21, 1955]

§ 201.48 Kind or variety considered pure seed.

The pure seed shall include all seeds of each kind or each kind and variety under consideration present in excess of 5 percent of the whole. Seeds of kinds or kinds and varieties present to the extent of 5 percent or less of the whole may be considered pure seed if shown on the label as components of a mixture in amounts of 5 percent or less. The following shall be included with the pure seed:

(a) Immature or shriveled seeds and seeds that are cracked or injured. For seeds of legumes (Leguminosae) and crucifers (Cruciferae) with the seed coats entirely removed refer to § 201.51(a)(1);

(b) Pieces of seeds which are larger than one-half of the original size. For separated cotyledons of legume seeds refer to § 201.51(a)(2);

(c) Insect-damaged seeds, provided that the damage is entirely internal, or that the opening in the seed coat is not sufficiently large so as to allow the size of the remaining mass of tissue to be readily determined. Weevil-infested vetch seeds, irrespective of the amount of insect damage, are to be considered pure seed, unless they are broken pieces one-half or less than the original size. For classification of broken pieces of seed units one-half or less than the original size, refer to § 201.51(a)(2). Refer to § 201.51(a)(3) for chalcid-damaged seeds;

(d) Seeds that have started to germinate;

(e) Seeds of the cucurbit family (Cucurbitaceae) and the nightshade family (Solanaceae) whether they are filled or empty;

(f) Intact fruits, whether or not they contain seed, of species belonging to the following families: Sunflower (Compositae), buckwheat (Polygonaceae), carrot (Umbelliferae), valerian (Valerianaceae), mint (Labiatae) and other families in which the seed unit may be a dry, indehiscent one-seeded fruit. For visibly empty fruits, refer to inert matter, § 201.51(a)(6);

(g) Seed units of the grass family listed in § 201.47a(b) (1) through (5) if a caryopsis with some degree of endosperm development can be detected in the units, either by slight pressure or by examination over light. Species in which determination of endosperm development is not necessary are listed in paragraphs (g) (1) and (2) of this section. Refer to §§ 201.48(h) and 201.51(a)(5) when nematode galls and fungal bodies have replaced the caryopsis in seed units. The following procedures apply to determine pure seed in the grass families listed below:

(1) Intact burs of buffalograss (Buchloe dactyloides) shall be considered pure seed whether or not a caryopsis is present. Refer to § 201.51(a)(6) for burs which are visibly empty.

(2) The Uniform Blowing Procedure described in § 201.51a(a) shall be used to determine classification of florets into pure seed or inert matter for Kentucky bluegrass (Poa pratensis), Canada bluegrass (P. compressa), rough bluegrass (P. trivialis), Pensacola bahiagrass (Paspalum notatum) and orchardgrass (Dactylis glomerata).

(3) Special purity procedures for Chewings fescue (Festuca rubra subsp. commutata), red fescue (F. rubra), orchardgrass (Dactylis glomerata), crested wheatgrass (Agropyron cristatum or A. desertorum), pubescent wheatgrass (A. intermedium var. trichophorum), intermediate wheatgrass (A. intermedium), and smooth brome (Bromus inermis), are listed in § 201.51a(b).

(4) For methods of determining pure seed percentages of annual and perennial ryegrass, refer to §§ 201.58(b)(10) and 201.58a(a).

(h) Seed units with nematode galls, fungal bodies (i.e. ergot, other sclerotia and smut) and spongy or corky caryopses which are entirely enclosed within the seed unit. Refer to § 201.51(c)(1) for inert matter classification, and to § 201.51(a)(5) for dallisgrass (Paspalum dilatatum) and bahiagrass (Paspalum notatum) as inert matter.

(i) Seed units of beets (Beta vulgaris) and New Zealand spinach (Tetragonia tetragonioides). Refer to §§ 201.47a(g) and 201.51(a)(6) for definitions of seed units and inert matter, respectively.

[46 FR 53636, Oct. 29, 1981]

§ 201.49 Other crop seed.

Seeds of plants grown as crops (other than the kind or variety included in the pure seed) shall be considered other crop seeds, unless recognized as weed seeds by applicable laws, or regulations, or by general usage. All interpretations and definitions for "pure seed" in § 201.48 shall also apply in determining whether seeds are other crop seed or inert matter.

[20 FR 7930, Oct. 21, 1955]

§ 201.50 Weed seed.

Seeds (including bulblets or tubers) of plants shall be considered weed seeds when recognized as weed seeds by the law or rules and regulations of the State into which the seed is offered for transportation or transported; or by the law or rules and regulations of Puerto Rico, Guam, or District of Columbia into which transported, or District of Columbia in which sold; or found by the Secretary of Agriculture to be detrimental to the agricultural interests of the United States, or any part thereof. Damaged weed seeds and immature seedlike structures, as described in § 201.51(b), shall be considered inert matter. Weed seeds, as defined above in this section, requiring further separation into weed seed and inert matter components are as follows:

(a) Capsules and clusters of seeds of poverty rush (Juncus tenuis), and other species of rush (Juncus spp.) having seeds of similar size, are classed as weed seeds. For the classification of individual seeds of rush (Juncus spp.) refer to § 201.51(b)(9);

(b) For species having seeds larger than rush (Juncus spp.), the individual seeds are to be removed from fruiting structures such as pods and heads. The seeds are classified as weed seed and the remaining fruiting structures classified as inert matter.

(c) Wild onion and wild garlic (Allium spp.) bulblets which have any part of the husk remaining and are not damaged at the basal end are considered weed seeds regardless of size. For wild onion and wild garlic (Allium spp.) bulblets classed as inert matter refer to § 201.51(b)(5).

[46 FR 53636, Oct. 29, 1981]

§ 201.51 Inert matter.

Inert matter shall include seeds and seed-like structures from both crop and weed plants and other material not seeds as follows:

(a) Seeds and seed-like structures from crop plants:

(1) Seeds of legumes (Leguminosae) and crucifers (Cruciferae) with the seed coats entirely removed. Refer to § 210.48(a) for pure seed classification.

(2) Pieces of broken and damaged seed units, including those that are insect damaged, which are one-half the original size or less. If greater than one-half, refer to § 201.48(b) and (c) for pure seed classification. Also included as inert matter are separated cotyledons of legumes, irrespective of whether or not the radicle-plumule axis and/or more than one-half of the seed coat may be attached.

(3) Chalcid-damaged seeds (puffy, soft, or dry and crumbly) of alfalfa, red clover, crimson clover, and similar kinds of small seeded legumes. Refer to § 201.48(c) for pure seed classification.

(4) Glumes and empty florets except as stated under pure seed. Refer to § 201.48 (g) and (h) for pure seed classification.

(5) Seed units with nematode galls or fungal bodies (smut, ergot, and other sclerotia) protruding from the tip of the seed unit. Also included are ergot and smut diseased caryopses of dallisgrass (Paspalum dilatatum) and bahiagrass (Paspalum notatum) which are entirely enclosed within the seed unit. Refer to § 201.48(h) for pure seed classification.

(6) Fruit portions or fragments of monogerm beets (Beta vulgaris), New Zealand spinach (Tetragonia tetragonioides), buffalograss (Buchloe dactyloides) and families in which the seed unit is a dry indehiscent one-seeded fruit which visibly does not contain a seed. Refer to § 201.48 (f), (g)(1), and (i) for pure seed classification.

(b) Seeds and seed-like structures from weed plants, which by visual examination (including the use of light or dissection), can be determined to be within the following categories:

(1) Damaged seed (other than grasses) with over one-half of the embryo missing.

(2) Grass florets and caryopses classed as inert:

(i) Glumes and empty florets of weedy grasses;

(ii) Damaged grass caryopses, including free caryopses, with over one-half the root-shoot axis missing (the scutellum excluded);

(iii) Immature free caryopses devoid of embryo and/or endosperm;

(iv) Immature florets of quackgrass (Agropyron repens) in which the caryopses are less than one-third the length of the palea. The caryopsis is measured from the base of the rachilla;

(v) Free caryopses of quackgrass (A. repens) that are 2 mm or less in length.

(3) Seeds of legumes and species of Brassica with the seed coats entirely removed.

(4) Immature seed units, devoid of both embryo and endosperm, such as occur in but not limited to the following plant families: Sedge (Cyperaceae), buckwheat (Polygonaceae), morning glory (Convolvulaceae), nightshade (Solanaceae), puncturevine (Zygophyllaceae) and sunflower (Compositae). Cocklebur (Xanthium spp.) burs are to

be dissected to determine whether or not seeds are present.

(5) Wild onion and wild garlic (Allium spp.) bulblets:

(i) Bulblets which are completely devoid of the husk and pass through a 1/13th-inch, round-hole sieve.

(ii) Bulblets which show evident damage to the basal end, whether husk is present or absent. Refer to § 201.50(c) for wild onion and wild garlic (Allium spp.) bulblets classed as weed seeds.

(6) Dodder (Cuscuta spp.): Seeds devoid of embryos and seeds which are ashy gray to creamy white in color are inert matter. Seeds should be sectioned when necessary to determine if an embryo is present as when seeds have a normal color but are slightly swollen, dimpled or have minute holes.

(7) Buckhorn (Plantago lanceolata): Black seeds, with no brown color evident, whether shriveled or plump; the color of questionable seeds shall be determined by use of a stereoscopic microscope with magnification of approximately 10× and a fluorescent lamp with two 15-watt daylight-type tubes.

(8) Ragweed (Ambrosia spp.): Seed with both the involucre and pericarp absent.

(9) Individual seeds of Juncus species shall be left in the inert matter and their presence recorded under "weed seeds."

(c) Other matter that is not seed:

(1) Free nematode galls or fungal bodies such as smut, ergot, and other sclerotia.

(2) Soil particles, sand, stone, chaff, stems, leaves, flowers, and any other foreign material.

[46 FR 53637, Oct. 29, 1981; 46 FR 58059, Nov. 30, 1981]

§ 201.51a Special procedures for purity analysis.

(a) The Uniform Blowing Procedure shall be used for the separation of pure seed and inert matter in the following: Kentucky bluegrass (Poa pratensis); Canada bluegrass (P. compressa); rough bluegrass (P. trivialis); Pensacola variety of bahiagrass (Paspalum notatum) and orchardgrass (Dactylis glomerata). When kinds listed in this section appear in mixtures they shall be separated from other kinds before using the uniform blowing procedure. To determine the blowing point for these procedures, individual calibration samples for Kentucky bluegrass, orchardgrass, and Pensacola variety of bahiagrass shall be used. The calibration sample for Kentucky bluegrass shall be used for Canada bluegrass and rough bluegrass. The blowing point for Canada bluegrass shall be the same as the blowing point determined for Kentucky bluegrass. The blowing point for rough bluegrass shall be a factor of 0.82 (82 percent) of the blowing point determined for Kentucky bluegrass. Calibration samples and instructions are available through the Seed Standardization Branch, AMS, LMG&S Division, USDA, Bldg. 306, Room 213, Beltsville, Maryland 20705. The calibration samples shall be used to establish a blowing point prior to proceeding with the separation of pure seed and inert matter for these kinds. After completing the blowing procedure, remove all weed and crop seeds from the light portion and add these to the weed or crop separation, as appropriate. The remainder of the light portion shall be considered inert matter. Remove all weed and crop seeds and other inert matter (stems, leaves, dirt) from the heavy portion and add these to the weed, crop or inert matter separations, as appropriate. The remainder of the heavy portion shall be considered pure seed. With orchardgrass, after the blowing, proceed with the multiple unit procedure.

(b) The Multiple Unit Procedure of determining the pure seed fraction shall be used for the kinds included in the following table when multiple units are present in a sample.

(1) A multiple unit is a seed unit that includes at least one fertile floret plus one or more of attached structures as follows (the length of an awn shall be disregarded when determining the length of a fertile floret or an attached structure):

(i) A sterile floret that extends to or beyond the tip of the fertile floret;

(ii) Basally attached glume, glumes, or sterile florets of any length.

(2) Procedure for determination of multiple seed units:

(i) For a single kind: determined the percentage of single florets present, based on the total weight of single florets and multiple units. Apply the appropriate factor, as determined from the following table, to the weight of the multiple units and add that portion of the multiple unit weight to the weight of the single units. The remaining multiple unit weight shall be added to the weight of the inert matter.

(ii) For mixtures that include one or more of the kinds in the following table, determine the percentage of single florets, based on the total weight of single florets and multiple units, for each kind. Apply the appropriate factor, as determined from the following table, to the weight of multiple units of each kind.

FACTORS APPLICABLE TO MULTIPLE UNITS [1]

Percent of single florets of each kind	Kind of seed (percent)						
	Chewings fescue	Red fescue	Orchard-grass	Crested wheat-grass [2]	Pubescent wheat-grass	Intermediate wheat-grass	Smooth brome
50 or below	91	80	80	70	66	72	72
50.01 to 55.00	91	81	81	72	67	74	74
55.01 to 60.00	91	82	81	73	67	75	75
60.01 to 65.00	91	83	82	74	67	76	76
65.01 to 70.00	91	84	82	75	68	77	78
70.01 to 75.00	91	86	82	76	68	78	79
75.01 to 80.00	91	87	83	77	69	79	81
80.01 to 85.00	91	88	83	78	69	80	82
85.01 to 90.00	91	89	83	79	69	81	83
90.01 to 100.00	91	90	84	79	70	82	85

[1] These factors represent the percentages of the multiple unit weights which are considered pure seed. The remaining percentage is regarded as inert matter.

[2] Includes both fairway crested wheatgrass (Agropyron cristatum) and standard crested wheatgrass (A. desertorum).

[46 FR 53637, Oct. 29, 1981]

§ 201.52 Noxious-weed seeds.

The determination of the number of seeds, bulblets, or tubers of individual noxious weeds present per unit weight should be made on at least the minimum quantities listed in § 201.46 Table 1: *Provided*, That if the following indicated numbers of a single kind of seed, bulblet, or tuber are found in the pure-seed analysis (or noxious-weed seed examination of a like amount) the occurrence of that species in the remainder of the bulk examined for noxious-weed seeds need not be noted: ½-gram purity working sample, 16 or more seeds; 1-gram purity working sample, 23 or more seeds; 2-gram purity working sample or larger, 30 or more seeds. The seeds per unit weight shall be based on the number of single seeds. The number of individual seeds shall be determined in burs of sandbur (Cenchrus spp.) and cocklebur (Xanthium spp.), capsules of dodder (Cuscuta spp.), berries of horsenettle and nightshade (Solanaceae) and in the fruits of other noxious weeds that contain more than one seed. Refer to §§ 201.50 and 201.51(b)(4) for the classification of weed seeds and inert matter, respectively.

[20 FR 7931, Oct. 21, 1955, as amended at 25 FR 8771, Sept. 13, 1960; 46 FR 53638, Oct. 29, 1981]

GERMINATION TESTS IN THE ADMINISTRATION OF THE ACT

§ 201.53 Source of seeds for germination.

(a) When both purity and germination tests are required, seeds for germination shall be taken from the separation of the kind, variety, or type considered pure seed and shall be counted without discrimination as to size or appearance.

(b) When only a germination test is required and the pure seed is estimated or determined to be at least 98 percent, the pure seed for the germina-

tion test may be taken indiscriminately from a representative portion of the bulk.

(c) When only a germination test is required and the pure seed is found to be less than 98 percent, the seed for the test shall be obtained by separating the sample into two components as follows: (1) Pure seed and (2) other crop seed, weed seed, and inert matter. In making this separation at least ¼ of the quantity required for a regular purity analysis shall be used. The whole sample must be well mixed and divided in such a manner as to get a completely representative subsample.

[10 FR 9952, Aug. 11, 1945, as amended at 20 FR 7931, Oct. 21, 1955]

§ 201.54 Number of seeds for germination.

At least 400 seeds shall be tested for germination except that in mixtures 200 seeds of each of those kinds present to the extent of 15 percent or less may be used in lieu of 400, in which case an additional 2 percent is to be added to the regular germination tol- erances. The seeds shall be tested in replicate tests of 100 seeds or less.

[15 FR 2395, Apr. 28, 1950]

§ 201.55 Retests.

Retests shall be made as follows:

(a) When the range of 100-seed replicates of a given test exceeds the maximum tolerated range in the table appearing in this section.

TABLE OF MAXIMUM TOLERATED RANGES BETWEEN 100-SEED REPLICATES FOR USE IN CONNECTION WITH § 201.55(a)

Average percent germinations		Maximum allowed between replicates		
		4 replicates	3 replicates	2 replicates
99	2	5	....	....
98	3	6	5	....
97	4	7	6	6
96	5	8	7	6
95	6	9	8	7
94	7	10	9	8
93	8	10	9	8
92	9	11	10	9
91	10	11	10	9
90	11	12	11	9
89	12	12	11	10
88	13	13	12	10
87	14	13	12	11
86	15	14	13	11
85	16	14	13	11
84	17	14	13	11
83	18	15	14	12
82	19	15	14	12
81	20	15	14	12
80	21	16	15	13
79	22	16	15	13
78	23	16	15	13
77	24	17	15	13
76	25	17	16	13
75	26	17	16	14
74	27	17	16	14
73	28	17	16	14
72	29	18	16	14
71	30	18	16	14
70	31	18	17	14
69	32	18	17	14
68	33	18	17	15
67	34	18	17	15
66	35	19	17	15
65	36	19	17	15
64	37	19	17	15
63	38	19	18	15
62	39	19	18	15
61	40	19	18	15
60	41	19	18	15
59	42	19	18	15
58	43	19	18	15
57	44	19	18	15
56	45	19	18	15
55	46	20	18	15
54	47	20	18	16
53	48	20	18	16
52	49	20	18	16
51	50	20	18	16

(b) When at the time of the prescribed final count there are indications, such as presence of firm ungerminated seeds, that a satisfactory germination has not been obtained;

(c) When there is evidence that the results may not be reliable due to improper test conditions, errors in seedling evaluation, the presence of fungi or bacteria, or inaccuracies in counting or recording results;

(d) When a sample shows seedling injury or abnormality as a result of chemical treatment, of exposure to chemicals, or of toxicity from any source. (Retest shall be made in soil or a mixture of soil and sand);

(e) When no two satisfactory tests are within tolerance.

EXPLANATORY NOTE: To find the maximum tolerated range, compute the average per-

centage of all 100-seed replicates of a given test, rounding off the result to the nearest whole number. The germination is found in the first two columns of the table. When the differences between highest and lowest replicates do not exceed the corresponding values found in the "4-replicate" column, no additional testing is required. If the differences exceed these values, omit the lowest replicate and compute the average of the three remaining replicates. If the range between the highest and lowest three replicates do not exceed the values in the "3-replicate" column for the new average percentage germination, retesting is not required and the average of the three replicates shall be regarded as the percentage germination. However, if the differences exceed the values in the "3-replicate" column, retesting is necessary.

When only 200 seeds are tested, retest if the range of the two replicates exceeds the values in the "2-replicate" column. In order to form 100-seed replicates, combine subreplicates of 25 or 50 seeds which were closest together in the germinator.

[25 FR 8771, Sept. 13, 1960]

§ 201.55a Moisture and aeration of substratum.

(a) The substratum must be moist enough to supply the needed moisture to the seeds at all times. Excessive moisture which will restrict aeration of the seeds should be avoided. Except as provided for those kinds of seeds requiring high moisture levels of the germination media, the substrata should never be so wet that a film of water is formed around the seeds. For most kinds of seeds blotters or other paper substrata should not be so wet that by pressing, a film of water forms around the finger.

(b) The following formula may be used as a guide in the preparation of sand for germination tests:

[118.3 cc. (1 gill) sand/Its weight in grams]×20.2−8.0=The number of cc. of water to add to each 100 grams of air-dry sand.

(c) The amount of water provided by this formula is satisfactory for seeds the size of clovers and will have to be modified slightly, depending on the kind of seed being tested and the kind of sand used. For example, slightly more moisture should be added when the larger seeds are to be tested.

(d) In preparing soil tests water should be added to the soil until it can be formed into a ball when squeezed in the palm of the hand but will break freely when pressed between two fingers. After the soil has been moistened it should be rubbed through a sieve and put in the seed containers without packing.

(e) The addition of water subsequent to placing the seed in test will depend on the evaporation from the substrata in the germination chambers. Since the rate of evaporation will depend upon the relative humidity of the air, it is desirable to keep water in the germination chambers or to provide other means of supplying a relative humidity of approximately 95 percent. Germination tests should be observed at frequent intervals to insure an adequate moisture supply of the substrata at all times.

[20 FR 7931, Oct. 21, 1955]

§ 201.56 Interpretation.

(a) A seed shall be considered to have germinated when it has developed those essential structures which, for the kind of seed under consideration, are indicative of its ability to produce a normal plant under favorable conditions. Seedlings possessing those essential structures are referred to as normal seedlings. Abnormal seedlings, consisting of those which are broken, devoid of roots, malformed, or weak, and other types not possessing essential structures, shall not be considered to have germinated.

(b) Sand and/or soil tests may be used as a guide in determining the classification of questionable seedlings and the evaluation of germination tests made on approved artificial media. This is intended to provide a method of checking the reliability of tests made on artificial substrata when there may be doubt as to the proper evaluation of such tests.

(c) Seedlings infected with fungi or bacteria should be regarded as normal if all essential structures are present. A seedling that has been seriously damaged by bacteria or fungi from any source other than the specific seed should be regarded as normal if it is determined that all essential structures were present before the injury or damage occurred. Germination counts should be made on samples where contamination and decay are present at approximately 2-day intervals between the usual first count and the final count. During the progress of the germination test, seeds which are obviously dead and moldy and which may be a source of contamination of healthy seeds should be removed at each count and the number of such dead seeds should be recorded. When symptoms of certain diseases develop which can be readily recognized and identified, their presence should be noted.

(d) Seed units containing more than one seed or embryo, such as New Zealand spinach seed, Beta seed, double fruits of the carrot family (Umbelliferae), multiple seeds of burnet, and seed units of grasses consisting of multiple florets, shall be tested as a single seed and shall be regarded as having germinated if they produce one or more normal seedlings.

(e) Standard guides for seedling interpretation shall include the photographs of normal and abnormal seedlings[1] identified by photo numbers in table 2 in § 201.58 and the following descriptions for specific kinds and groups.

[20 FR 7931, Oct. 21, 1955, as amended at 25 FR 8771, Sept. 13, 1960]

§ 201.56-1 Goosefoot family (Chenopodiaceae) and Carpetweed family (Aizoaceae).

(a) Kinds of seed: Beet, swiss chard, mangel, spinach, and New Zealand spinach.

(b) A completely normal seedling of the kinds specified in paragraph (a) of this section should have a long, slender root with root hairs, a long, well-developed hypocotyl, two attached leaflike cotyledons and an intact but small epicotyl. Normal seedlings shall include those that have: (1) A well-developed, long, slender root with root hairs; (2) a stubby primary root provided the secondary roots are strong and the hypocotyl is near normal length, as in spinach; (3) at least one attached cotyledon, provided the seedling is otherwise normal; (4) slight infection by fungi, provided none of the essential seedling structures have been damaged; (5) normal seedling structures of Beta that have been discolored from toxic substances in the seed balls or other causes; or (6) at least one normal seedling from a seed ball, regardless of whether abnormal seedlings also emerge from the same fruit.

(c) Abnormal seedlings include those that have: (1) No root or a stubby primary root with poor secondary root development, usually associated with a shortened hypocotyl; (2) a malformed, shortened, twisted, watery, or stubby hypocotyl; usually associated with a stubby root but not necessarily so; (3) deep grainy lesions or cracks in the hypocotyl if they appear to interfere with the conducting tissues; (4) both cotyledons absent as in samples of "sheared" beets and occasional samples of spinach; (5) two large cotyledons, but a malformed, short hypocotyl, usually with a stubby root; (6) decayed cotyledons or hypocotyl, provided they are not the result of improper test conditions (if there is decay of beet seedlings in blotter tests the results from a properly conducted soil or sand test should be accepted as correct); or (7) various combinations of the abnormalities described in this paragraph.

[20 FR 7932, Oct. 21, 1955]

§ 201.56-2 Sunflower family (Compositae).

Kinds of seed: Artichoke, cardoon, chicory, dandelion, endive, great burdock, lettuce, safflower, salsify, and sunflower. By the end of the germination test, a perfectly normal seedling belonging to the sunflower family should have a well-developed root with root hairs, a long and well-developed hypocotyl, two leaf-like cotyledons, and a small but visible epicotyl.

(a) Lettuce: The interpretations of lettuce seedlings are made only at the end of the test period. When used to describe seedling structures "normal length" means that length attained by a vigorous sample of the same variety of lettuce as the one being tested when both are placed under the same test conditions. Physiological necrosis of cotyledons is frequently manifested by softened, grayish, blackish, or reddish areas and should not be confused with natural pigmentation. Seedlings with extensive physiological necrosis and/or injured areas on the cotyledons are slower in growth and tend to be shorter than seedlings without such damage. It is not necessary to distinguish between necrotic areas and injury caused by fungi and bacteria since the interpretation is the same for all conditions. Seedlings interpretations are to be made with not more than a 7× magnification. Colored photographs of lettuce cotyledons are to be used as guides for classification. These photographs may be obtained from the U.S. Department of Agriculture, Agricultural Marketing Service, Grain Division, Seed Branch, South Laboratory Building, Agricultural Research Center, Beltsville, Md. 20705.

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[1] These photographs may be purchased from the Office of Information, United States Department of Agriculture, Washington, D.C. 20250.

(1) Normal seedlings include those that have: (i) Long, vigorous roots, over half the usual length for vigorous seedlings; (ii) long, vigorous hypocotyls, over half the usual length for vigorous seedlings, with no cracks or lesions extending into the central conducting tissue; (iii) two cotyledons either free of injury or with less than half the total cotyledon surface covered by physiological necrosis or injured areas (the hypocotyl and root should be more than half normal length); and (iv) an epicotyl entirely free of injury.

(2) Abnormal seedlings include those that have: (i) No roots, or roots clearly less than half normal length with root tips blunt, swollen, or discolored; (ii) hypocotyls clearly less than half normal length, or severely twisted or grainy, or with cracks or lesions extending into the central conducting tissue; (iii) only one cotyledon, or cotyledons with half or more than half their total area necrotic or injured (the hypocotyl and root are usually less than half normal length), or swollen cotyledons (usually grayish or darkened) with extremely short or vestigial hypocotyl and root (see coat usually adhering to cotyledons); (iv) no epicotyl or an epicotyl with any degree of injury or physiological necrosis.

(b) Other kinds in the sunflower family: This group includes artichoke, cardoon, sunflower, safflower, salsify, dandelion, chicory, endive, and great burdock.

(1) Normal seedlings include those that have: (i) A well-developed, long, slender primary root with root hairs; (ii) a stubby root if there are one or more strong secondary roots, provided the seedling is otherwise normal; (iii) a well-developed, long hypocotyl with no prominent breaks or deep lesions which might interfere with the conducting tissues; (iv) one complete cotyledon or two broken cotyledons with half or more original cotyledon tissue remaining attached to the seedling (epicotyl must be present); or (v) slight infection of the roots or hypocotyl with fungi, provided none of the essential seedling structures have been damaged.

(2) Abnormal seedlings include those that have: (i) No root or a stubby root with weak secondary roots, usually associated with a shortened hypocotyl; (ii) a malformed hypocotyl, which may be curled, shortened, or thickened, usually associated with a stubby root; (iii) deep, unhealed cracks or grainy areas on the hypocotyl, extending into the conducting tissues; (iv) both cotyledons entirely broken off; (v) part of one cotyledon or two broken cotyledons with less than half of the original cotyledon tissue remaining attached; (vi) two normal cotyledons with a short malformed hyopcotyl, usually with a stubby root; (vii) decayed cotyledons, provided the infection is not caused by improper test conditions; (viii) epicotyl absent; or (ix) various combinations of the abnormalities described.

[20 FR 7932, Oct. 21, 1955, as amended at 26 FR 10035, Oct. 26, 1961; 30 FR 7891, June 18, 1965; 32 FR 12780, Sept. 6, 1967; 38 FR 12731, May 15, 1973]

§ 201.56-3 Mustard family (Cruciferae).

Kinds of seed: Broccoli, brussels sprouts, cabbage, Chinese cabbage, cauliflower, collards, garden cress, upland cress, water cress, kale, Chinese kale, Siberian kale, kohlrabi, mustard, pakchoi, radish, rape, rutabaga, and turnip. By the end of the germination test, a perfectly normal cruciferous seedling should have a well-developed root, usually with root hairs, a long hypocotyl two intact green leaflike cotyledone and a small but visible epicotyl or growing point.

(a) *Radish and Brassica.* (1) Normal seedlings include those that have: (i) A well-developed, long, slender primary root with root hairs; (ii) a well-developed, long hypocotyl with no prominent breaks or deep lesions which might interfere with the conducting tissues; (iii) one or two cotyledons not decayed at the point of attachment to the hypocotyl, provided the epicotyl is also present; (iv) slight decay at the base of one cotyledon, provided the epicotyl is not infected; (v) less than 50 percent of the area of the cotyledons covered with spots or darkened areas; or (vi) slight infection of roots or hypocotyl with fungi, provided none of the essential seedling structures have been damaged.

(2) Abnormal seedlings include those that have: (i) No root or a stubby root, usually associated with a shortened hypocotyl; (ii) a malformed hypocotyl, which may be curled, shortened, or thickened and usually associated with a stubby root; (iii) deep, unhealed cracks or lesions (often grainy) on the hypocotyl, extending into the conducting tissues; (iv) decay at the point of attachment of both cotyledons to the hypocotyl which may or may not involve the terminal bud; (v) decay at the point of attachment of one cotyledon to the hypocotyl, provided the terminal bud is also decayed; (vi) 50 percent or more of the area of the cotyledons covered with spots or darkened areas; (vii) decayed roots or hypocotyl provided the infection was not caused by improper test conditions; (viii) watery hypocotyl (usually associated with some other abnormality of the seedlings) provided this condition is not caused by excessive moisture of the substratum; or (ix) various combinations of the abnormalities described in this paragraph.

(b) *Garden cress, upland cress, and water cress.* (1) Normal seedlings include those that have: (i) A well-developed, slender root with root hairs; (ii) a long, well-developed hypocotyl with no prominent breaks or deep lesions which might interfere with the conducting tissues; (iii) intact cotyledons; or (iv) slight infection with fungi, provided none of the essential seedling structures have been damaged.

(2) Abnormal seedlings include those that have: (i) No root, or a stubbly root, usually associated with a shortened hypocotyl; (ii) a malformed hypocotyl, which may be curled, twisted, shortened, or thickened and frequently associated with a stubby root; (iii) deep, unhealed cracks or grainy lesions on the hypocotyl, extending into the conducting tissues; (iv) watery hypocotyls, usually associated with stubby roots or decayed cotyledons; (v) cotyledons entirely broken off; (vi) decayed cotyledon, provided the infection was not caused by improper test conditions; or (vii) various combinations of the abnormalities described in this paragraph.

[20 FR 7932, Oct. 21, 1955, as amended at 25 FR 8772, Sept. 13, 1960; 28 FR 5361, May 30, 1963]

§ 201.56-4 Cucurbit family (Cucurbitaceae).

(a) Kinds of seed: Citron, cucumber, muskmelon or cantaloup, pumpkin, squash, and watermelon.

(b) By the end of the germination test a perfectly normal seedling should have a well-developed primary root with several secondary roots, a long hypocotyl, two intact cotyledons, and an epicotyl or terminal growing bud.

(1) Normal seedlings include those that have: (i) A well-developed primary root with or without secondary roots; (ii) a stubby primary root with at least two strong and vigorous adventitious roots, provided the hypocotyl is not shortened very much; (iii) a long well-developed hypocotyl; (iv) two intact cotyledons; or (v) slight infection by fungi, provided none of the essential seedling structures have been damaged.

(2) Abnormal seedlings include those that have: (i) No primary root, a stubby primary root only, or a stubby primary root with weak secondary roots which are usually associated with a short hypocotyl; (ii) a malformed hypocotyl which may be shortened or thickened; (iii) a thickened and shortened hypocotyl and roots owing to injury from chemical treatment, provided the injury is still ap-

parent in a soil or sand check test; (iv) decayed cotyledons or other essential seedling structures, provided the decay was not the result of improper test conditions; or (v) various combinations of the abnormalities described in this paragraph.

[20 FR 7933, Oct. 21, 1955]

§ 201.56-5 Grass family (Gramineae).

Kinds of seed: Bentgrasses, bluegrasses, bluestems, bromes, cereals, fescues, millets, orchard grass, redtop, ryegrass, sorghum, timothy, wheatgrass, and all other grasses listed in § 201.1(h).

In the grass family a perfect seedling should have a well-developed primary root system, an intact cotyledon or scutellum, seed free from serious decay and long, well-developed green leaves within the coleoptile. One or more leaves may have broken through the coleoptile by the end of the test period.

(a) *Barley, oats, rye, and wheat.* (1) Normal seedlings include those that have: (i) At least one primary or seminal root, but preferably two or three seminal roots, provided the shoot is well-developed and the grain is not badly decayed; (ii) well-developed green leaves, not badly split, regardless of whether the coleoptiles are split; (iii) spiral twisting or bending of the shoot, provided it is green in color, has normal length, and is not frost damaged; or (iv) slight infection by fungi, provided none of the essential seedling structures have been damaged.

(2) Abnormal seedlings include those that have: (i) No primary root, (ii) only one or two short or spindly seminal roots which are usually accompanied by weakened shoots and decayed grains; (iii) no green leaves, but only the white sheath or coleoptile formed, which may or may not be grainy, spirally twisted, split, or shortened; (iv) a shortened shoot, extending no more than one-half the way up through the coleoptile; (v) a thin, spindly, or watery shoot usually accompanied by weak root development and decayed grains; (vi) badly shattered or longitudinally split leaves, with or without splitting of the coleoptile; (vii) thickened and shortened shoot (leaves and coleoptile) often the result of overtreatment of seed with chemicals; (viii) decayed shoots (usually weak and show decay near the point of attachment to the grain which has often decayed) provided the decay is not the result of improper test conditions; (ix) bad frost-damage characterized by grainy coleoptiles and spirally twisted leaves and coleoptiles; (x) coleoptiles developed without the leaves (in soil tests, some of the longest of the spirally twisted seedlings will appear fairly strong but most of them break off just above the attachment of the plumule and coleoptile to the grain; the shortest of the seedlings do not emerge in soil tests); or (xi) various combinations of the abnormalities described in this paragraph.

(b) *Rice.* (1) Normal seedlings include those that have: (i) One primary root, usually with numerous lateral roots (several permanent roots arising from the first node should be present if seedlings are not removed until the end of the test); (ii) well-developed green leaves, not badly split, regardless of whether the coleoptiles are split; or (iii) slight infection by fungi, provided none of the essential seedling structures have been damaged.

(2) Abnormal seedlings include those that have: (i) No roots; (ii) a spindly primary root with very little or no branching or secondary development; (iii) no green leaves, but only the white sheath or coleoptile; (iv) a spindly and sometimes watery shoot which is usually associated with decay of the rice grain; (v) a short leaf, extending no more than one-half the distance up through the coleoptile; (vi) shattered or longitudinally split plumules with or without splitting of the coleoptile; (vii) decayed plumules (usually appear weak and show decay near the point of attachment to the grain) provided the decay is not the result of improper test conditions; or (viii) various combinations of the abnormalities described in this paragraph.

(c) *Corn.* (1) Normal seedlings include those that have: (i) One primary root, usually with secondary roots present; (ii) no primary root, but with at least two vigorous secondary roots, provided the grain is not badly decayed, and the shoot is well-developed;

(iii) well-developed green leaves, not badly split, regardless of whether the coleoptiles are split; (iv) twisted and curled shoots bound by the tough seedcoat, provided the shoot is not decayed; or (v) slight infection by fungi, provided none of the essential seedling structures have been damaged.

(2) Abnormal seedlings include those that have: (i) No primary or secondary roots; (ii) no primary roots but small and weak secondary roots; (iii) no plumule, but only the white sheath or coleoptile; (iv) a shortened plumule, extending no more than one-half the way up through the coleoptile; (v) a thickened and shortened shoot, often the result of overtreatment of seed with chemicals; (vi) a spindly and pale shoot, usually associated with moldy seeds; (vii) albino (entirely white) seedlings, which will not develop into plants because of lack of chlorophyll; (viii) shattered or longitudinally split leaves, with or without splitting of the coleoptile; (ix) decayed shoots of which the plumules usually appear weak and show decay near the point of attachment to the grain and the scutellum is usually rotten, provided the decay is not the result of improper test conditions; or (x) various combinations of the abnormalities described in this paragraph.

(d) *Sorghum* spp. (1) Normal seedlings include those that have: (i) One vigorous primary root, usually with well-developed lateral branches by the end of the test period; (ii) short primary root, but with at least two vigorous lateral roots; (iii) well-developed green leaves not badly split, regardless of whether coleoptiles are split; (iv) slight infection by fungi, provided none of the essential seedling structures have been damaged; (v) red coloration on the roots and on the coleoptile of the shoot, caused by natural pigments, provided the seedling is otherwise normal.

(2) Abnormal seedlings include those that have: (i) No roots; (ii) weak, spindly, or short primary root, and less than two vigorous lateral roots (often associated with decay of the grain); (iii) no plumule, but only the sheath or coleoptile; (iv) a shortened plumule, extending no more than one-half the way up through the coleoptile; (v) a spindly, pale plumule, usually associated with moldy seeds; (vi) shattered and longitudinally split plumules, with or without splitting of the coleoptile; (vii) decayed plumules, provided the decay is not due to improper testing conditions (the plumules usually appear weak and show decay near the point of attachment of the grain, which is usually decayed); or (viii) various combinations of the abnormalities described.

(e) *Grasses and millets.* (1) Normal seedlings include those that have: (i) A well-developed primary root, usually with root hairs; (ii) well-developed green leaves, not badly split, regardless of whether the coleoptiles are split; (iii) slight infection by fungi, provided none of the essential seedling structures have been damaged; (iv) spirally coiled roots held within the tightly enveloping glumes as in certain samples of Bermuda grass; or (v) poor root development resulting from injury caused by use of a potassium nitrate solution (if many roots are so affected, a retest should be made on top of soil in closed Petri dishes).

(2) Abnormal seedlings include those that have: (i) No root; (ii) a weak, stubby, or spindly root, usually short and watery, associated with a decayed seed; (iii) no plumule, but only the white sheath or coleoptile which is often short and thick; (iv) a shortened plumule, extending only one-half the distance up through the coleoptile; (v) a spindly plumule, usually pale and watery; (vi) a shattered longitudinally split plumule with or without splitting of the coleoptile; (vii) decayed plumules, provided the decay is not the result of improper test conditions (the plumules usually appear weak and show decay near the point of attachment to the seed, which is usually rotten); or (viii) various combinations of the abnormalities described in this paragraph.

[20 FR 7933, Oct. 21, 1955, as amended at 24 FR 3954, May 15, 1959; 30 FR 7891, June 18, 1965]

§ 201.56–6 Legume or pea family (Leguminosae).

Kinds of seed: Alfalfa, alyceclover, asparagusbean, beans (Phaseolus spp.), beggarweed, black medic, broadbean, bur-clovers, button-clover, chickpea, clovers (Trifolium spp.), cowpea, crotalarias, crownvetch, guar, hairy indigo, kudzu, lentil, lespedezas, lupines, peas, peanut, rough pea sainfoin, sesbania, sourclover, soybean, sweetclover, trefoils, velvetbean, and vetches.

(a) *Beans: adzuki, field, garden, lima, and mung.* Seedling interpretation for all these beans is similar as they all have the same type of development.

(1) Normal seedlings include those that have: (i) A terminal bud or epicotyl, and at least one primary leaf, with one complete cotyledon or two broken cotyledons with half or more of the original cotyledon tissue remaining attached to the seedling; except that adzuki, field, lima and mung may have both cotyledons missing provided the seedling is otherwise normal; (ii) a primary root or adventitious or secondary roots sufficient to anchor the seedling when grown in soil or sand, provided the hypocotyl is approximately of normal length; (iii) a fairly well-developed hypocotyl with no prominent breaks or deep lesions (healed breaks, sometimes referred to as knees, are to be considered as normal, provided the seedling is not spindly); (iv) spirally twisted and curled roots and hypocotyl held within the tough seedcoat, causing delayed development, but are otherwise normal; (v) slight infection caused by fungi or bacteria, provided the essential structures have not been seriously damaged and appear to be able to carry on their normal functions at the time of evaluation. (If a few seedlings with total or partial decay of the plumule are found, they may be counted as normal, provided the hypocotyl and root are well-developed. The plumules on such seedlings usually do not decay when grown under greenhouse conditions where the cotyledons open up naturally and are exposed to a dry environment and sunlight. However, if there are many seedlings with decayed plumules in a test, a retest should be made and such seedlings evaluated cautiously.)

(2) Abnormal seedlings include those that have: (i) No primary leaves or terminal bud (baldheads); (ii) no primary leaves, but with a terminal bud (snakeheads or partial baldheads); (iii) no primary leaves, but terminal bud present and axillary buds in one or both of the cotyledons (partial baldheads); (iv) part of one cotyledon or two broken cotyledons with less than half the original tissue remaining attached; except that adzuki, field, lima and mung must have seedlings that are weak and lacking in vigor when both cotyledons are missing; (v) a malformed hypocotyl, which may be characterized by open splits, or one that appears curled, shortened, or thickened; (vi) no primary root or well-developed set of adventitious or secondary roots; or various combinations of the abnormalities described in this paragraph.

(b) *Broadbean, runner bean, velvetbean, chickpea, field pea, garden pea, roughpea, lentil, and vetches.* In this group a perfectly normal seedling should have a well-formed root, with or without secondary or adventitious development, a strong epicotyl with fairly long stem, a well-developed epicotyl with the leaves and terminal bud intact, and attached cotyledons.

(1) Normal seedlings include those that have: (i) A primary root or a set of secondary or adventitious roots sufficient to anchor the seedling when grown in soil or sand, provided the stem is not badly shortened; (ii) a fairly well-developed stem with no prominent breaks or deep lesions which might interfere with the conducting tissues; (iii) a terminal bud with at least one first leaf and an intact growing point; (iv) two shoots, provided the seedling appears vigorous and at least one of the shoots has a normal epicotyl and root; (v) slight infection by fungi, provided the essential seedling parts have not been seriously damaged and appear to be able to carry on their normal functions at the time of evaluation; or (vi) at least one complete cotyledon or two broken cotyledons with half or more of the cotyledon tissue remaining attached to the seedling.

(2) Abnormal seedlings include those that have: (i) No primary root or well-developed secondary or adventitious roots; (ii) a malformed stem, which may be characterized by severe open

splits, and curled, shortened, or thickened development; (iii) no epicotyl, or an epicotyl without the terminal bud; (iv) two shoots both of which appear weak and spindly, often partially broken away from the cotyledons; (v) decay caused by the spread of organisms from the cotyledons of the developing seedling; (vi) part of one cotyledon or two broken cotyledons with less than half of the cotyledon tissue remaining attached; or (vii) various combinations of the abnormalities described.

(c) *Cowpeas, lupines, peanuts, soybeans and asparagusbeans.* A completely normal seedling of the abovementioned kinds should have a well-formed root with or without secondary or adventitious roots, a strong and fairly long hypocotyl with two attached and open cotyledons, two well-developed primary leaves, and an intact terminal bud or epicotyl.

(1) Normal seedlings include those that have: (i) A primary root or a set of secondary or adventitious roots sufficient to anchor the seedling when grown in soil or sand, provided the hypocotyl is normal; (ii) a fairly well-developed hypocotyl with no prominent breaks or deep lesions which might interfere with the conducting tissues; (iii) a plumule with at least one leaf and an intact growing point; (iv) slight infection by fungi, provided the essential seedling parts have not been seriously damaged and appear to be able to carry on their normal functions at the time of evaluation; or (v) at least one complete cotyledon or two broken cotyledons with one-half or more of the cotyledon tissue remaining attached to the seedling. Cowpea and asparagusbean may have both cotyledons missing.

(2) Abnormal seedlings include those that have: (i) No primary root or no well-developed secondary or adventitious roots; (ii) a malformed hypocotyl which may be curled, shortened, or thickened or have severe open splits; (iii) no epicotyl, or one without the growing point, with or without leaves; (iv) decayed epicotyl, provided the decay has spread from the rotted cotyledons of the developing seedling; or (v) various combinations of the abnormalities described in this paragraph.

(d) *Alfalfa, alyceclover, beggarweed, black medic, burclovers, buttonclover, clovers, crotalarias, crownvetch, guar, hairy indigo, kidzu, lespedezas, sainfoin, sesbania, sourclover, sweetclovers, trefoils.* By the end of the germination test a perfectly normal seedling should have a long, slender root, usually with root hairs, a long hypocotyl, two attached cotyledons which have opened, and an intact epicotyl or growing point.

(1) Normal seedlings include those that have: (i) A long, slender root, usually with root hairs; (ii) slightly stubby roots on blotter tests of sweetclovers, provided the seedling is otherwise normal; (iii) roots slightly stubby from being held back by the attached seedcoat, provided the seedling is otherwise normal; (iv) short splits on the roots, provided the split does not extend into the central conducting tissues of the hypocotyl, and provided further that root hairs are present and the seedling is normal in other respects; (v) a long, well-developed hypocotyl which may have slight cracks or breaks, provided they do not extend into the conducting tissues; (vi) at least one cotyledon, provided the epicotyl is also present; or (vii) slight infection by fungi, provided none of the essential seeding structures have been damaged.

(2) Abnormal seedlings include those that have: (i) Stubby roots, usually associated with shortened hypocotyl; (ii) longitudinal, deep splits on the roots, extending into the conducting tissues of the hypocotyls; (iii) deep cracks or breaks in the hypocotyl which extend into the conducting tissues; (iv) both cotyledons broken off; (v) one cotyledon broken off if the epicotyl is also absent; (vi) rotted cotyledons, provided the decay did not spread to the seedling from an adjacent seed or was not the result of improper test conditions; (vii) A spindly, watery hypocotyl, provided it is not the result of excess moisture in the substrata (usually seedlings of this type have one or more abnormalities of the essential structures, such as broken cotyledons or deep splits in the hypocotyl); or (viii) various combinations of the abnormalities described in this paragraph.

[20 FR 7934, Oct. 21, 1955, as amended at 22 FR 4911, July 12, 1957; 25 FR 8772, Sept. 13, 1960; 30 FR 7891, June 18, 1965; 32 FR 12781, Sept. 6, 1967; 46 FR 53638, Oct. 29, 1981]

§ 201.56–7 Lily family (Liliaceae).

Kinds of seed: Asparagus, chives, leek, onion, and Welsh onion.

(a) *Chives, onion, Welsh onion,* and *leek.* By the end of the test period a perfectly normal onion or leek seedling should have a long, slender root with a thickened area where it is joined to the hypocotyl, and a long, green cotyledon with a definite loop or bend, often referred to as the "knee".

(1) Normal seedlings include those that have: (i) A well-developed, long, slender root, with or without root hairs; (ii) a long, green, leaf-like cotyledon, with a well-developed bend or "knee" or (iii) slight infection by fungi, provided none of the essential seedling structures have been damaged.

(2) Abnormal seedlings include those that have: (i) A thickened hypocotyl with no root, or a stubby root, (ii) a very short cotyledon associated with a poorly developed root, (iii) a poorly developed leaf-like cotyledon without a definite bend or "knee", (iv) a spindly, watery cotyledon, often associated with slowness in sprouting, and one or more other abnormalities, (v) a rotted cotyledon, provided the decay is not the result of improper test conditions, or (vi) various combinations of the abnormalities described in this paragraph.

(b) *Asparagus.* By the end of the test period a normal asparagus seedling should have a long, slender root, a fairly long epicotyl, an intact terminal bud, and the seedling should not be broken away from the cotyledon.

(1) Normal seedlings include those that have: (i) A long, slender root; (ii) a long, well-developed epicotyl with terminal growing point; (iii) the cotyledon attached to the seedling; or (iv) slight infestation by fungi, provided none of the essential seedling structures have been damaged.

(2) Abnormal seedlings include those that have: (i) No root, or a very stubby root with weak secondary root development; (ii) a malformed epicotyl, which may be thickened, shortened, or twisted; (iii) no terminal growing point or bud; (iv) cotyledon broken away from the seedling; (v) decayed epicotyl, provided the decay is not the result of improper test conditions; or (vi) various combinations of the abnormalities described in this paragraph.

[20 FR 7935, Oct. 21, 1955, as amended at 25 FR 8772, Sept. 13, 1960; 26 FR 10035, Oct. 26, 1961]

§ 201.56–8 Flax family (Linaceae).

(a) Kind of seed: Flax.

(b) By the end of the germination test a normal flax seedling should have a well-developed primary root, a long hypocotyl, two intact cotyledons, and a small epicotyl.

(1) Normal seedlings include those that have: (i) A long, slender root, usually with root hairs; (ii) a short or stubby primary root, provided secondary root development is strong and the hypocotyl is of normal length or approximately so; (iii) a long, well-developed hypocotyl with no breaks or lesions extending into the conducting tissues; (iv) at least one attached cotyledon, provided the epicotyl is not injured; (v) variously broken or cracked cotyledons, provided the other seedling parts appear normal; or (vi) slight infection by fungi, provided none of the essential seedling structures have been damaged.

(2) Abnormal seedlings include those that have: (i) A stubby or no primary root, provided the secondary root development is weak, a condition usually associated with a shortened hypocotyl; (ii) a malformed hypocotyl, which may be twisted, thickened, or shortened; (iii) deep cracks or lesions on the hypocotyl, extending into the conducting tissues; (iv) both cotyledons broken off; (v) one cotyledon broken off if the epicotyl is also injured (vi) decayed cotyledons or other essential seedling structures, provided the decay is not the result of improper test conditions; or (vii) various combinations of the abnormalities described in this paragraph.

[20 FR 7935, Oct. 21, 1955]

§ 201.56–9 Mallow family (Malvaceae).

(a) Kinds of seed: Cotton and okra.

(b) By the end of the germination test a perfectly normal seedling should have a long, well-developed root with root hairs, a long hypocotyl, two attached green leaflike cotyledons, and a small epicotyl.

(1) Normal seedlings include those that have: (i) A well-developed, long, slender root, usually with root hairs; (ii) no primary root but strong secondary roots, provided the hypocotyl is of normal or approximately normal length; (iii) a long, well-developed hypocotyl with no breaks or deep grainy lesions which might interfere with the conducting tissues; (iv) at least one cotyledon and intact epicotyl; (v) slight infection by fungi, provided none of the essential seedling structures have been damaged; or (vi) yellowish hypocotyls or roots of cotton which may appear diseased, provided the cotyledons are free of infection (the seedcoat must be peeled back on young seedlings to determine this condition of the cotyledons).

(2) Abnormal seedlings include those that have: (i) No root or very stubby roots, usually associated with a shortened hypocotyl; (ii) stubby roots and a thickened hypocotyl resulting from chemical treatment of seed, such as often occurs on delinted cottonseed; (iii) malformed hypocotyl, which may be curled, thickened, or shortened; (iv) deep cracks or grainy lesions on the hypocotyl which appear to interfere with the conducting tissues; (v) epicotyl absent, even though one or both cotyledons are attached; (vi) decayed cotyledons and hypocotyl, provided the decay did not spread from another seed or was not the result of improper test conditions; or (vii) various combinations of the abnormalities described in this paragraph.

[20 FR 7935, Oct. 21, 1955]

§ 201.56-10 Spurge family (Euphorbiaceae).

Kind of seed: Caster bean.

(a) Normal seedlings include those that have:

(1) A primary root or a set of secondary or adventitious roots sufficient to anchor the seeding when grown in soil or sand, provided the hypocotyl is not badly shortened;

(2) A fairly well-developed hypocotyl with no prominent breaks or stem lesions which might interfere with the conducting tissues;

(3) An epicotyl with terminal bud;

(4) Both cotyledons (thin leaf-like structures) present and intact, plus an intact epicotyl;

(5) Less than two cotyledons present; bearing organ (fleshy food storage organs resembling cotyledons); or

(6) Slight infection by fungi or bacteria, provided the essential seedling parts have not been seriously damaged and appear to be able to carry on their normal functions at the time of evaluation.

(b) Abnormal seedlings include those that have:

(1) No primary root or well-developed adventitious or secondary roots;

(2) A malformed stem, which may be characterized by severe open splits, and curled, shortened or thickened hypocotyl;

(3) No epicotyl, or an epicotyl without the terminal bud;

(4) No attached endosperm-bearing organ;

(5) Less than two cotyledons present;

(6) Decay caused by micro-organisms carried by the individual seed or seedling being evaluated; or

(7) Various combinations of the abnormalities described in this paragraph.

[20 FR 7935, Oct. 21, 1955, as amended at 25 FR 8772, Sept. 13, 1960]

§ 201.56-11 Miscellaneous plant families.

Kinds of seed by families:

Benne family (Pedaliaceae)—Sesame.
Carrot family (Umbelliferae)—carrot, celery, celeriac, parsley, parsnip.
Dichondra family (Dichondraceae)—Dichondra.
Knotweed family (Polygonaceae)—Buckwheat, sorrel, rhubarb.
Nightshade family (Solanaceae)—Eggplant, pepper, tomato, husk tomato, tobacco.
Geranium family (Geraniaceae)—Alfileria.
Hemp family (Cannabinaceae)—Hemp.
Rose family (Rosaceae)—Little burnet.
Valerian family (Valerianaceae)—Cornsalad.

(a) In this group of plant families, normal seedlings include those that have: (1) A well-developed primary root, usually with root hairs; (2) a stubby root or no primary root, provided the secondary root development is strong and the hypocotyl is near normal length as is frequently encountered in tomato seedlings; (3) a long, well-formed hypocotyl with no prominent breaks or lesions extending into the conducting tissues; (4) at least one attached cotyledon, provided the epicotyl is intact and the seedling is otherwise normal (a tiny epicotyl may be observed in seedlings left in test for final evaluation); or (5) slight infection by fungi, provided none of the essential seedling structures have been damaged (infection is likely to occur in rhubarb in which case retests may be advisable).

(b) Abnormal seedlings include those that have: (1) A stubby root or no primary root, provided there is weak secondary root development; (2) a malformed hypocotyl, which may be twisted, thickened, or shortened; (3) deep cracks or lesions on the hypocotyl extending into the conducting tissues; (4) both cotyledons, or one cotyledon and epicotyl, broken off; (5) two enlarged cotyledons, but hypocotyl short and usually malformed; (6) watery hypocotyl or root; (7) grainy hypocotyl or root; (8) decayed cotyledons or hypocotyl, provided they are not the result of improper test conditions; or (9) various combinations of the abnormalities described in this paragraph.

[20 FR 7935, Oct. 21, 1955, as amended at 25 FR 8772, Sept. 13, 1960]

§ 201.57 Hard seeds.

Seeds which remain hard at the end of the prescribed test because they have not absorbed water, due to an impermeable seed coat, are to be counted as "hard seed." If at the end of the germination period provided for legumes, okra, cotton and dichondra in these rules and regulations there are still present swollen seeds or seeds of these kinds which have just started to germinate, all seeds or seedlings except the above-stated shall be removed and the test continued for 5 additional days and the normal seedlings included in the percentage of germination.

[5 FR 33, Jan. 4, 1940, as amended at 10 FR 9952, Aug. 11, 1945; 20 FR 7936, Oct. 21, 1955]

§ 201.57a Dormant seeds.

Dormant seeds are viable seeds, other than hard seeds, which fail to germinate when provided the specified germination conditions for the kind of seed in question.

(a) Viability of ungerminated seeds shall be determined by any of the following methods or combinations of methods: a cutting test, tetrazolium test, scarification, or application of germination promoting chemicals.

(b) The percentage of dormant seed, if present, shall be determined in addition to the percentage of germination for the following kinds: Bahiagrass (Paspalum notatum), bluestems (Andropogon gerardi, A. hallii, Bothriochloa ischaemum and Schizachyrium scoparium), buffalograss (Buchloe dactyloides), buffelgrass (Cenchrus ciliaris), gramas (Bouteloua spp.), Indian ricegrass (Oryzopsis hymenoides), lovegrasses (Eragrostis spp.), sand dropseed (Sporobolus cryptandrus), smilo (Oryzopsis miliacea), switchgrass (Panicum virgatum), veldtgrass (Ehrharta calycina), western wheatgrass (Agropyron smithii), and yellow indiangrass (Sorghastrum nutans).

[46 FR 53638, Oct. 29, 1981]

§ 201.58 Substrata, temperature, duration of test, and certain other specific directions for testing for germination and hard seed.

Specific germination requirements are set forth in table 2 in paragraph (c) to which the following paragraphs (a) and (b) are applicable:

(a) *Definitions and explanations applicable to table 2*—(1) *Duration of tests.* The following deviations are permitted from the specified duration of tests: Any test may be terminated prior to the number of days listed under "Final count" if the maximum germination of the sample has then been determined. The number of days stated for the first count is approximate and a deviation of 1 to 3 days is permitted. If at the time of the prescribed test period the seedlings are not sufficiently developed for positive evaluation, it is possible to extend the time of the test period two additional days. (Also, see paragraph (a)(5) of this section and § 201.57.)

(2) *Light.* Cool white fluorescent light shall be provided where light is required in table 2. The light intensity shall be 75 to 125 foot-candles (750-1,250 lux). (The light intensity for nondormant seed and during seedling development may be as low as 25 foot-candles to enable the essential structures to be evaluated with greater certainty.) The seeds shall be illuminated for at least 8 hours every 24 hours except when transferred to a low temperature germinator during the weekend. When seeds are germinated at alternating temperatures they shall be illuminated during high temperature periods. Seeds for which light is prescribed shall be germinated on top of the substratum except for ryegrass fluorescence tests.

(3) *Moisture-on-dry-side.* This term means that the moistened substratum should be pressed against a dry absorbent surface such as a dry paper towel or blotter to remove excess moisture. The moisture content thus obtained should be maintained throughout the germination test period.

(4) *Potassium nitrate* (KNO_3). These terms mean a two-tenths (0.2) percent solution of potassium nitrate (KNO_3) shall be used in moistening the substratum. Such solution is prepared by dissolving 2 grams of KNO_3 in 1,000 ml. of distilled water. The grade of the potassium nitrate shall meet A.C.S. specifications.

(5) *Prechill.* The term "prechill" means to place the seed on, or in, a moist substratum at a specified low temperature for a designated period of time. The prechilling period is not included in the duration of tests given in table 2, unless otherwise specified.

(6) *Predry.* The term "predry" means to place the seed in a shallow layer at a temperature of 35° to 40° C. for a period of 5 to 7 days, with provisions for circulation of the air.

(7) *Substrata (Kinds).* The symbols used for substrata are:

B= between blotters
TB= top of blotters
T= paper toweling, used either as folded towel tests or as roll towel tests in horizontal or vertical position
S= sand or soil
TS= top of sand or soil
P= covered Petri dishes: with two layers of blotters; with one layer of absorbent cotton; with five layers of paper toweling; with three thicknesses of filter paper; or with sand or soil
C= creped cellulose paper wadding (0.3-inch thick Kimpak or equivalent) covered with a single thickness of blotter through which holes are punched for the seed that are pressed for about one-half their thickness into the paper wadding
TC= on top of creped cellulose paper without a blotter
RB= blotters with raised covers, prepared by folding up the edges of the blotter to form a good support for the upper fold which serves as a cover, preventing the top from making direct contact with the seeds.

(8) *Temperature.* A single numeral indicates a constant temperature. Two numerals separated by a dash indicate an alternation of temperature, the test to be held at the first temperature for approximately 16 hours and at the second temperature for approximately 8 hours per day. The temperature shall be determined at the substratum level and shall be as uniform as possible throughout the germination chamber. (A sharp alternation of temperature, such as obtained by hand transfer, may be beneficial in breaking dormancy.) If tests are not subjected to alternating temperatures over weekends and on holidays, they are to be held at the first-mentioned temperature during this time. In cases where two temperatures are indicated (separated by a semicolon) the first temperature shall be regarded as the regular method and the second as an alternate method.

(9) Paper substrata must be free of chemicals toxic to germinating seed and seedling growth. If root injury occurs from toxicity of a paper substratum or from the use of potassium nitrate, retests shall be made on soil or on a substratum moistened with water.

(10) *Ethephon.* This term means a 29 parts per million (0.0029 percent) solution of ethephon [(2-chloroethyl) phosphonic acid] which shall be used to moisten the substratum. This solu-

tion is prepared by mixing 0.6 ml of a stock solution with 5,000 ml of distilled water. The stock solution contains 24 grams of active material per 100 ml of propylene glycol or two pounds of active material per gallon. A solution which is five times this concentration (5 x 29 ppm) may be used for extremely dormant seeds, provided seeds are transferred to substratum moistened with water after 1 to 3 days.

(11) *Ethylene.* This term means that five (5) ml of ethylene gas per cubic foot (176.57 ml/m^3) of germinator space is injected into a germinator in which peanut seeds in moist rolled towels have been placed. Following injection of the ethylene, the germinator is kept closed until the first count (5 days). If the germinator door is opened for the purpose of checking or rewetting the samples, another injection of ethylene at the same rate shall be made.

(b) *Special procedures and alternate methods for germination referred to in table 2*—(1) *Alyce clover (Alysicarpus vaginalis); Swollen seeds.* At the conclusion of the 21-day test period carefully pierce the seedcoat with a sharp instrument and continue the test for 5 additional days.

Alternate method: The swollen seeds may be placed at 20° C. for 48 hours and then at 35° C. for 3 additional days.

(2) *Bahiagrass (Paspalum notatum); removal of glumes.* On all varieties except "Pensacola", remove the enclosing structures (glumes, lemma, and palea) from the caryopsis with the aid of a sharp scalpel. It the seed is fresh or dormant, scratch the surface of the caryopsis lightly.

(3) *Beet, Swiss chard (Beta); preparation of seed for test.* Before placing the seeds on the germination substratum they shall be soaked in water for 2 hours, using at least 250 ml. of water per 100 seeds, then washed in running water and the excess water should be blotted off. The temperature of the soaking and washing water should be no lower than 20° C. Samples producing darkened radicles should be retested in soil or by washing in running water for 3 hours and tested on "Kimpak," keeping the seed covered with slightly moist blotters. Sugar beets may require 16 hours soaking in water at 25° C., followed by rinsing and then drying for 2 hours at room temperature.

(4) *Buffelgrass (Pennisetum ciliare); alternate method for dormant seed.* The caryopses shall be removed from the fascicles and placed on blotters moistened with a 0.2 percent potassium nitrate solution, in Petri dishes. The seeds from a fascicle should be arranged so they will not be confused with seeds from other fascicles during the test. The seeds are then prechilled at 5° C. for 7 days and tested at 30° C. in light for 21 additional days. Firm ungerminated seeds remaining at the conclusion of the test should be scratched lightly and left in test for 7 additional days.

(5) *Cotton (Gossypium spp.); dormant samples.* Samples of cottonseed which do not respond to the usual method should be placed in a closed container with water and shaken until the lint is thoroughly wet. The excess moisture should then be blotted off.

(6) *Endive (Cichorium endivia); dormant samples.* Add about ⅛ inch of tap water at the beginning of the test and remove excess water after 24 hours.

(7) [Reserved]

(8) *Rescue grass (Bromus catharticus); dormant samples.* Wash for 48 hours in running water, or soak for 48 hours, changing the water and rinsing each morning and night.

(9) *Rice (Oryza sativa)—Alternate method.* Plant the seeds in moist sand. On the seventh day of the test add water to a depth of one-fourth inch above the sand level and leave for the remainder of the test. Only a final count is made. Dormant seeds: Presoak 24 to 48 hours in 40° C. water. For deeply dormant seeds, presoak 24 hours in 1,000 p.p.m. ethylene chlorohydrin or 5 percent solution of sodium hypochlorite (clorox at bottle strength).

(10) *Ryegrass (Lolium); fluorescence test.* The germination test for the fluorescence of ryegrass shall be conducted in light (not to exceed 100 foot-candles) with white filter paper as a substratum. The test shall be conducted in a manner that will prevent the contact of roots of different seedlings. If there are over 75 percent normal fluo-

rescent seedlings present at the time of the first count, break the contact of the roots of the nonfluorescent seedlings from the substratum and reread the fluorescence at the time of the final count.

(11) *Trifolium, Medicago, Melilotus, and Vicia faba; temperature requirements.* A temperature of 18° C. is desirable for *Trifolium* spp., *Medicago* spp., *Melilotus* spp., and *Vicia faba.*

(12) *Garden beans (Phaseolus vulgaris); use of calcium nitrate.* If hypocotyl collar rot is observed on seedlings, the sample involved may be retested using a 0.3 to 0.6 percent solution of calcium nitrate to moisten the germination medium.

(13) *Fourwing Saltbush (Atriplex canescens); preparation of seed for test.* De-wing seeds and soak for 2 hours in 3 liters of water after which rinse with approximately 3 liters of distilled water. Remove excess water, air dry for 7 days at room temperature, then test for germination as indicated in Table 2.

(c) *Table 2; germination requirements for indicated kinds.*

TABLE 2—Germination Requirements for Indicated Kinds

Name of seed	Substrata	Temperature (°C)	First count (Days)	Final count (Days)	Additional directions	
					Specific requirements and photo numbers	Fresh and dormant seed
AGRICULTURAL SEED						
Agrotricum—*Agrotriticum*	B.T.S.	20;15	4	7		Prechill at 5° or 10° C. for 5 days.
Alfalfa—*Medicago sativa*	B, T, S.	20	4	[1]7	Photos 2481, 2486; see par. (b)(11).	
Alfilaria—*Erodium cicutarium*	B, T.	20–30	3	14	Clip seeds.	
Alyceclover—*Alysicarpus vaginalis*	B, T.	35	4	[1]21	See par. (b)(1) for swollen seeds.	
Bahiagrass—*Paspalum notatum*:						
Var. *Pensacola*	P, S.	20–35	7	[2]28	Light; see par. (b)(2)	See Dormant seeds—§ 201.57a
All other vars	P.	30–35	3	21	Light; remove glumes; see par. (b)(2)	Scratch caryopses; KNO_3.
Barrelclover—*Medicago tribuloides*	B, T.	20	4	[1]14	Remove seeds from bur; see par. (b)(11)	
Barley—*Hordeum vulgare*	B, T, S.	20; 15	4	7		Prechill 5 days a 5° or 10° C. or predry.
Bean:						
Adzuki—*Vigna angularis*	B, T, S.	20–30	4	10		
Field—*Phaseolus vulgaris*	B, T, S.	20–30; 25	5	[1]8		
Mung—*Vigna radiata*	B, T, S.	20–30	3	[1]7		
Beet, field—*Beta vulgaris*	B, T, S.	20–30	3	14	Photos 19557, 19558; see par. (b)(3)	
Beet, sugar—*Beta vulgaris*	B, T, S.	20–30; 20	3	10	do.	
Beggarweed, Florida—*Desmodium tortuosum*.	B, T.	30	5	28		
Bentgrass:						
Colonial (including Astoria and Highland)—*Agrostis tenuis*.	P.	15–30; 10–30; 15–25	7	28	Light; KNO_3.	Prechill at 5° or 10° C. for 7 days; see par. (a)(2).
Creeping—*Agrostis stolonifera var. palustris*.	P.	15–30; 10–30;	7	28	do.	Prechill at 5° or 10° C. for 7 days.
Velvet—*Agrostis canina*	P.	15–25 20–30	7	21	do.	
Bermudagrass—*Cynodon dactylon*	P.	20–35	7	21	Light; KNO_3; photo 2518; see par. (a)(9)	
Bermudagrass—*Cynodon dactylon var aridus. Harlan et de Wit.*	P.	20–35	7	21	do.	Prechill at 10° C. for 7 days and then test at 20°–35°. Continue tests of hulled seed for 14 days and of unhulled seed for 21 days.
Bluegrass:						
Bulbous—*Poa bulbosa*	P, S.	10	10	35	KNO_3 or soil	Prechill all samples at 5° C. for 7 days.
Canada—*Poa compressa*	P.	15–25; 15–30	10	28	Light; KNO_3, see par. (a)(2)	10–30° C.
Glaucantha—*Poa glaucantha*	P.	15–25; 15–30	10	28	Light; KNO_3.	
Kentucky (all var.)—*Poa pratensis*	P.	15–25 15–30	10	28	do.	Prechill at 10° C. for 5 days.
Nevada—*Poa nevadensis*	P.	20–30	7	21	do.	
Rough—*Poa trivialis*	P.	20–30	7	21	Light.	
Texas—*Poa arachnifera*	P.	20–30	7	28	Light; KNO_3.	Prechill at 5° C. for 2 weeks.
Wood—*Poa nemoralis*	P.	20–30	7	28	Light.	
Bluestem:						
Big—*Andropogon gerardi*	P, TS	20–30	28	Light; KNO_3	Prechill at 5° C. for 2 weeks.	See Dormant seeds—§ 201.57a

TABLE 2—Germination Requirements for Indicated Kinds—Continued

Name of seed	Substrata	Temperature (°C)	First count (Days)	Final count (Days)	Additional directions	
					Specific requirements and photo numbers	Fresh and dormant seed
Little—*Schizachyrium scoparium*	P, TS	20–30	7	28	do	See Dormant seeds—§ 201.57a.
Sand—*Andropogon hallii*	P, TS	20–30	7	28	do	See Dormant seeds—§ 201.57a.
Yellow—*Bothriochloa ischaemum*	P, TS	20–30	5	21	do	See Dormant seeds—§ 201.57a
Brome:						
Field—*Promus arvensis*	P, TB	15–25; 20–30	6	14	Light	Prechill at 10° C. for 5 days.
Meadow—*Bromus balbersteinii*	B, T, TB	20–30	6	14	Light optional	
Mountain—*Bromus marginatus*	P	20–30	6	14	do	
Smooth—*Bromus inermis*	P, B, TB	20–30	6	14	Light optional	Prechill at 5° or 10° C. for 5 days, then test at 30° C. for 9 additional days.
Broomcorn—*Sorghum bicolor*	B, T, S	20–30	3	10		
Buckwheat—*Fagopyrum esculentum*	B, T	20–30	3	6		
Buffalograss—*Buchloe dactyloides*:						
(Burs)	P, TB, TS	20–35	7	28	Light; KNO_3	Prechill at 5° C. for 6 weeks; test 14 additional days. See Dormant seeds—§ 201.57a.
(Caryopses)	P	20–35	5	14	Light; KNO_3	See Dormant seeds—§ 201.57a.
Buffelgrass—*Cenchrus ciliaris*	S	30	7	28	Light; press fascicles into well-packed soil and prechill at 5° C. for 7 days.	See par. (b)(4). See Dormant seeds—§ 201.57a.
Burclover, California—*Medicago polymorpha*	B, T	20	4	[1]14	Remove seeds from bur; see par. (b)(11)	
Burclover, spotted—*Medicago arabica*	B, T	20	4	[1]14	do	
Burnet, little—*Sanguisorba minor*	B, T	15	5	14		
Buttonclover—*Medicago orbicularis*	B, T	20	4	[1]10	See par. (b)(11)	15° C.
Canarygrass—*Phalaris canariensis*	B, T	20–30	3	7		
Canarygrass, reed—*Phalaris arundinacea*	P	20–30	5	21	Light; KNO_3	
Carpetgrass—*Axonopus affinis*	P	20–35	10	21	Light	Do.
Castorbean—*Ricinus communis*	T, S	20–30	7	14	Remove caruncle if mold interferes with test.	
Chess, soft—*Bromus mollis*	P	20–30	7	14	Light	Prechill at 5° or 10° C. or 7 days.
Chickpea—*Cicer arietinum*	T, S	20–30	3	7		
Clover:						
Alsike—*Trifolium hybridum*	B, T, S	20	3	[1]7	See par. (b)(11)	15° C.
Arrowleaf—*Trifoluim vesiculosum*	B, T	20	4	14	See par. (b)(11)	
Berseem—*Trifolium alexandrinum*	B, T, S	20	3	[1]7	do	Do.
Cluster—*Trifolium glomeratum*	B, T	20	4	[1]10	do	Do.
Crimson—*Trifolium incarnatum*	B, T, S	20	4	[1]7	See par. (b)(11); photos 2479, 2482	Do.
Kenya—*Trifolium semipilosum*	B, T, S	20	3	7		
Ladino—*Trifolium repens*	B, T, S	20	3	[1]7	See par. (b)(11)	15° C.
Lappa—*Trifolium lappaceum*	B, T	20	3	[1]7	do	Do.
Large hop—*Trifolium campestre*	B, T	20	4	[1]14	do	Do.
Persian—*Trifolium resupinatum*	B, T	20	3	[1]7	do	Do.
Red—*Trifolium pratense*	B, T, S	20	4	[1]7	See par. (b)(11); photos 2483, 2484	Do.
Rose—*Trifolium hirtum*	B, T	20	4	[1]10	See par. (b)(11)	Do.

Small hop (Suckling)—*Trifolium dubium.*	B, T	20	4	[1]14	......do	......Do.
Strawberry—*Trifolium fragiferum*	B, T	20	3	[1]7	......do	......Do.
Sub—*Trifolium subterraneum*	B, T	20	4	[1]14	......do	......Do.
White—*Trifolium repens*	B, T, S	20	3	[1]7	......do	......Do.
Corn:						
Field—*Zea Mays*	B, T, S, TC	20–30; 25	4	7	Photos 2510, 2511, 2512, 2514	
Pop—*Zea mays*	B, T, S, TC	20–30; 25	4	7		
Cotton—*Gossypium* spp.	B, T, S	20–30; 30	4	[1]12	Photos 19553, 19554	Test by alternate method; see par. (b)(5).
Cowpea—*Vigna unguiculata* subsp. *unguiculata.*	B, T, S	20–30	5	[1]8	Photos 1989, 1990, 2377	
Crested dogtail—*Cynosurus cristatus*	P	20–30	10	21	Light	Prechill for 3 days at 5° or 10° C.
Crotalaria:						
Lance—*Crotalaria lanceolata*	B, T, S	20–30	4	[1]10		
Showy—*Crotalaria spectabilis*	B, T, S	20–30	4	[1]10	Photos 2496, 2497	
Slenderleaf—*Crotalaria brevidens* var. *intermedia.*	B, T, S	20–30	4	[1]10		
Striped—*Crotalaria pallida*	B, T, S	20–30	4	[1]10		
Sunn—*Crotalaria juncea*	B, T, S	20–30	4	[1]10		
Crownvetch—*Coronilla varia*	B, T, S	20	7	[1]14		
Dallisgrass—*Paspalum dilatatum*	P	20–35	7	21	Light; KNO_3	
Dichondra—*Dichondra repens*	B, T	20–30	7	[1]28		
Dropseed, sand—*Sporobolus cryptandrus*	P	5–35; 15–35	5	28	......do	Prechill at 5° C. for 4 weeks. See Dormant seeds—§ 201.57a.
					Photos 2507, 2520–2522	Prechill at 5° C. or 10° C. for 5 days or predry.
Emmer—*Triticum dicoccum*	B, T, S	20; 15	4	7		
Fescue:						
Chewings—*Festuca rubra* subsp. *commutata.*	P	15–25	7	21	Light and KNO_3 optional	Prechill at 5° or 10° C. for 5 days.
Hard—*Festuca longifolia*	P	15–25	7	21	......do	
Hair—*Festuca tenuifolia*	P	10–25	10	28	KNO_3	
Meadow—*Festuca pratensis*	P	15–25; 20–30	5	14	Light and KNO_3 optional	
Red—*Festuca rubra* subys. *rubra*	P	15–25	7	21	Light and KNO_3 optional	
Sheep—*Festuca ovina* var. *ovina*	P	15–25	7	21	......do	
Tall—*Festuca arundinacea*	P	15–25; 20–30	5	14	Light and KNO_3 optional	Prechill at 5° or 10° C. for 5 days and test for 21 days.
Flax—*Linum usitatissimum*	B, T, S	20–30	3	7	Photos 2003, 2008, 2485, 2487	
Grama:						
Blue—*Bouteloua gracilis*	P, TB	20–30	7	28	Light	KNO_3. See Dormant seeds—§ 201.57a.
Side-oats—*Bouteloua curtipendula*	P	15–30	7	28	Light; KNO_3	See Dormant seeds—§ 201.57a.
Guar—*Cyamopsis tetragonoloba*	B, T, S	30; 20–30	5	[1]14		
Guineagrass—*Panicum maximum*	P	15–35	10	28	Light; KNO_3 optional	
Hardinggrass—*Phalaris stenoptera*	P	10–30	7	28	Light	KNO_3. KNO_3.
Hardinggrass (alternate method.)	P	15–25	7	14	Light; presoak at 15° C for 24 hours	Presoak at 15° C. for 24 hours.
Hemp—*Cannabis sativa*	B, T	20–30	3	7		Prechill at 5° C. for 2 weeks.
Indiangrass, yellow—*Sorghastrum nutans*	P, TS	20–30	7	28	Light; KNO_3	See Dormant seeds—§ 201.57a.
Indigo, hairy—*Indigofera hirsuta*	B, T	20–30	5	[1]14		

TABLE 2—Germination Requirements for Indicated Kinds—Continued

Name of seed	Substrata	Temperature (°C)	First count (Days)	Final count (Days)	Additional directions	
					Specific requirements and photo numbers	Fresh and dormant seed
Japanese lawngrass—*Zoysia japonica*	P	35–20	10	28	Light; KNO_3	KNO_3.
Johnsongrass—*Sorghum halepense*	P	20–35	7	35	Light	
Kudzu—*Pueraria lobata*	B, T	20–30	5	[1]14		
Lentil—*Lens culinaris*	B, T	20	5	[1]10		
Lespedeza:						
Korean—*Lespedeza stipulacea*	B, T, S	20–35	5	[1]14		
Sericea or Chinese—*Lespedeza cuneata (L. sericea).*	B, T, S	20–35	7	21	Photo 2494	
Siberian—*Lespedeza juncea*	B, T, S	20–35	7	[1]21		
Striate (Common, Kobe, Tenn. 76)—*Lespedeza striata.*	B, T, S	20–35	7	[1]14		
Lovegrass, sand—*Eragroits trichodes*	P	20–30	5	14	Light, KNO_3	Prechill at 5° or 10° C. for 6 weeks. See Dormant seeds—§ 201.57a.
Lovegrass, weeping—*Eragrostis curvula*	P	20–35	5	14	Light	KNO_3. See Dormant seeds—§ 201.57a.
Lupine:						
Blue—*Lupinus angustifolius*	B, T, S	20	4	[1]10	Photos 14535–14542	
White—*Lupinus albus*	B, T	20	3	[1]10		
Yellow—*Lupinus luteus*	B, T	20	7	[1]10		
Manilagrass—*Zoysia matrella*	P	35–20	10	28	Light; KNO_3	
Meadow foxtail—*Alopecurus pratensis*	P	20–30	7	14	Light	
Medick, black—*Medicago lupulina*	B, T, S	20	4	[1]7	See par. (b)(11).	
Milkvetch—*Astragalus cicer*	B, T	20	6	14		
Millet:						
Browntop—*Brachiaria ramosa*	B, P, T	20–30; 30	4	14	Light and KNO_3 optional	Predry at 35° or 40° C. for 7 days; and test at 30° C.
Alternate Method	B, P, T,	5–35	4	14	Light; KNO_3A	
Foxtail—Such as Common, White Wonder, German, Hungarian, Siberian, or Golden—*Setaria italica.*	B, T	15–30, 20–30	4	10		
Japanese—*Echinochloa crusgalli* var. *frumentacea.*	B, T	20–30	4	10		
Pearl—*Pennisetum americanum*	B, T	20–30	3	7		
Proso—*Panicum miliaceum*	B, T	20–30	3	7		
Molassesgrass—*Melinis minutiflora*	P	20–30	7	21	Light	
Mustard—						
Black—*Brassica nigra*	P	20–30	3	7	do	KNO_3 and prechill at 10° C. for 3 days.
India—*Brassica juncea*	P	20–30	3	7	do	Prechill at 10° C. and test for 5 days; KNO_3.
White—*Sinapsis alba*	P	20–30	3	5	do	
Napiergrass—*Pennisetum purpureum*	B, T	20–30	3	10		
Oat—*Avena* spp	B, T, S	20; 15	5	10	Photos 2407, 2408, 2524–2527, 19545, 19546.	Prechill at 5° or 10° C. for 5 days and test for 7 days or predry and test for 10 days.

Oatgrass, tall—*Arrhenatherum elatius*	P	20–30	6	14	Light	
Orchardgrass—*Dactylis glomerata*	P, TS	15–25	7	21	Light; germination more rapid on soil	Prechill at 5° or 10° C. for 7 days and test at 15°–25° C.
Panicgrass, blue—*Panicum antidotale*	P, TS	20–30	7	28	Light	
Panicgrass, green—*Panicum maximum* var. *trichoglume.*	P	15–35	10	28	Light: KNO_3 optional	
Peanut—*Arachis hypogaea*	B, T, S	20–30; 25	5	10	Remove shells; photos 19541, 19542	Ethephon, ethylene—see § 201.58(a)(10) and (11).
Pea, field—*Pisum satisum* var. *arvense*	B, T, S	20	3	[1]6	Photos 2503, 2506, 1453–14547	
Rape:						
Annual—*Brassica napus* var. *annua*	B, T	20–30	3	7		
Bird—*Brassica rapa*	P	20–30	3	10	Light	KNO_3
Turnip—*Brassica rapa*	B, T	20–30	3	7		
Winter—*Brassica napus* var. *biennis*	B, T	20–30	3	7		
Redtop—*Agrostis gigantea*	P, TB	20–30	5	10	Light	Do.
Rescuegrass—*Bromus unioloides*	P, S	10–30	7	28	Light; see par. (b)(8) for alternate method	In soil at 15° C.
Rhodesgrass—*Chloris gayana*	P	20–30	14	Light; KNO_3		
Rice—*Oryza sativa*	T, S	20–30; 30	5	14	Photos 19549, 19550; see par. (b)(9) for alternate method.	Presoak, see par. (b)(9).
Ricegrass, Indian—*Oryzopsis hymenoides*	P	15	7	42		Prechill at 5° C. for 4 weeks and test for 21 additional days. See Dormant seeds—§ 201.57a.
Alternate method	S	5–15;15;15–25	7	28		Dark; prechill in soil at 5° C. for 4 weeks.
Roughpea—*Lathyrus hirsutus*	B, T	20	7	[1]14		
Rye—*Secale cereale*	B, T, S	20; 15	4	7	Photos 2403, 2406, 2528–2531	Prechill at 5° or 10° C. for 5 days or predry.
Ryegrass:						
Annual (Italian)—*Lolium multiflorum*	P, TB	15–25	5	14	Light optional; see par. (b)(10) for fluorescence test.	Light; KNO_3; prechill at 5° or 10° C. for 5 days and test at 15–25° C.; if the seeds are still dormant rechill for 3 days and continue the test at 15°–25°C. an additional 4 days.
Perennial—*Lolium perenne*	P, TB	15–25	5	14	do	Do.
Wimmera—*Lolium rigidum*	P, TB	15–25; 20–30	5	14	do	Do.
Safflower—*Carthamus tinctorius*	P, B, T, S	15; 20	4	14	Light at 15°C.	
Sainfoin—*Onobrychis viciifolia*	B, T	20–30	4	[1]14		
Saltbush—Fourwing *Atriplex canescens*	B	20	5	14	See par. (b)(13)	Prechill 5 C. for 7 days.
Sesame—*Sesamum indicum*	B, T, TB	20–30	3	6		
Sesbania—*Sesbania exaltata*	B, T	20–30	5	[1]7		
Smilo—*Oryzopsis miliacea*	P	20–30	7	42	Light	Prechill at 5° C. for 2 weeks. See Dormant seeds—§ 201.57a.
Sorghum:						
Grain and Sweet—*Sorghum bicolor*	B, T, S	20–30	4	10	Photos 2413–2416	Prechill grain varieties at 5° or 10° C. for 5 days; test sweet varieties at 30–45° C., maintaining 45° C. for 2–4 hours per day.
Sorghum almum—*Sorghum almum*	T, S	20–35; 15–35	5	21		Prechill at 5° C. for 5 days. Upon the 10th day of test, clip or pierce the distal end of ungerminated seeds.

TABLE 2—Germination Requirements for Indicated Kinds—Continued

Name of seed	Substrata	Temperature (°C)	First count (Days)	Final count (Days)	Additional directions	
					Specific requirements and photo numbers	Fresh and dormant seed
Sorghum-sudangrass *S. bicolor* × *S. Sudanense.*	B, T, S	20–30	4	10		Prechill at 5° C. or 10° C. for 5 days.
Sorgrass[3]	B, T, S	15–35; 20–35	5	21	Photos 2413–2416	Prechill at 5° or 10° C. For 7 days.
Sourclover—*Melilotus indica*	B, T	20	3	[1]14	See paragraph (b)(11)	
Soybean—*Glycine max*	B, T, S, TC	20–30;25	5	[1]8	Photos 2371, 2372, 2378	
Spelt—*Triticum spelta*	B, T, S	20; 15	4	7	Photos 2507; 2520–2522	Prechill at 5° or 10° C. for 5 days, or predry.
Sudangrass—*Sorghum sudanense*	B, T, S	20–30; 15–30	4	10	Photos 2449–2452	Prechill at 10° C. for 5 days.
Sunflower (Cult.)—*Helianthus annuus*	T, B	20–30	3	7		
Sweetclover:						
White—*Melilotus alba*	B, T, S	20	4	[1]7	Photos 2374, 2375, 2376, 2381; see par. (b)(11).	
Yellow—*Melilotus officinalis*	B, T, S	20	4	....do		
Sweet vernalgrass—*Anthoxanthum odoratum.*	P	20–30	6	14	Light	
Switchgrass—*Panicum virgatum*	P, TS	15–30	7	28	Light; KNO_3	Prechill at 5° C. for 2 weeks. See Dormant seeds—§ 201.57a.
Timothy—*Phleum pratense*	P, TB	15–25; 20–30	5	10	Light; photo 2399; see par. (a)(9)	KNO_3 and prechill at 5° or 10° C. for 5 days.
Timothy—*Turf-Phleum nodosum*	P, TB	15–25; 20–30	5	10	Light	KNO_3 and Prechill at 5° or 10° C. for 5 days.
Tobacco—*Nicotiana tobacum*	P, TB	20–30	7	14	Light	
Trefoil:						
Big—*Lotus uliginosus* (*L. major*)	B, T	20	5	12		
Birdsfoot—*Lotus corniculatus*	B, T	20	5	12	Photos 19531, 19532	
Vaseygrass—*Paspalum urvillei*	P	20–35	7	21	Light	KNO_3
Veldtgrass—*Ehrharta calycina*	P	10–30	7	28	....do	See Dormant seeds—§ 201.57a.
Velvetbean—*Mucuna deeringianum*	B, T, S, C	20–30	3	[1]14	Photos 19539, 19540	
Velvetgrass—*Holcus lanatus*	P	20–30	6	14	Light	
Vetch:						
Common—*Vicia sativa subsp. sativa*	B, T	20	5	[1]10		
Hairy—*Vicia villosa*	B, T	20	5	[1]14		
Hungarian—*Vicia panonica*	B, T	20	5	[1]10		
Monantha—*Vicia articulata* (*V. monantha*).	B, T	20	5	[1]10		
Narrowleaf—*Vicia sativa subsp. nigra*	B, T	20	5	[1]14		
Purple—*Vicia benghalensis*	B, T	20	5	[1]10		
Woolypod—*Vicia dasycarpa*	B, T	20	5	[1]14		Prechill at 10° C. for 5 days and test at 15° C.
Wheat:						
Common—*Triticum aestivum*	B, T, S	20; 15	4	7	Photos 2507, 2520–2522	Prechill at 5° or 10° C. for 5 days, or predry.
Club—*Triticum compactum*	B, T, S	20; 15	4	7	....do	....Do.

Durum—*Triticum durum*	B, T, S	20; 15	4	10	do	Do.
Polish—*Triticum polonicum*	B, T, S	20; 15	4	7	do	Do.
Poulard—*Triticum turgidum*	B, T, S	20; 15	4	7	do	Do.
Wheat × *Agrotricum-triticum* × *Agrotriticum*	B, T, S	20; 15	4	7		Do.
Wheatgrass:						
Beardless—*Agropyron spicatum* f. *inerme*.	P, TB	15–25	7	14	Light and KNO_3 optional	KNO_3 and prechill at 5° C. or 10° C. for 7 days.
Fairway crested—*Agropyron cristatum*	P, TB	15–25; 20–30	5	14	do	Do.
Standard crested—*Agropyron desertorum*.	P, TB	15–25; 20–30	5	14	do	Do.
Intermediate—*Agropyron intermedium*	P	15–25	5	28	do	Do.
Pubescent—*Agropyron intermedium* var. *tricophorum*.	P	15–25	5	26	do	Do.
Alternate method	P	20–30	5	28	Light	Do.
Siberian—*Agropyron sibiricum*	P, TB	15–25	7	14	do	Do.
Slender—*Agropyron trachycaulum*	P, TB	15–25; 10–30	5	14	do	Prechill at 5° or 10° C. for 5 days. If still dormant on 10th day, rechill 2 days.
Streambank—*Agropyron riparium*	P, TB	15–25	5	14	do	Prechill at 5° or 10° for 5 days.
Tall—*Agropyron elongatum*	P	15–25	5	21	do	Do.
Alternate method	P	20–30	5	21	Light	Do.
Western—*Agropyron smithii*	B, T	15–30; 15–30	7	28		KNO_3 or soil. See Dormant seeds—§ 201.57a.
Wildrye:						
Canada—*Elymus canadensis*	P	15–30	7	21	Light	Prechill at 5° C. for 2 weeks.
Russian—*Elymus junceus*	P	20–30	5	14	do	Prechill at 5° or 10° C. for 5 days.
VEGETABLE SEED						
Artichoke—*Cynara scolymus*	B, T	20–30	7	21	Photos 19533, 19534	
Asparagus—*Asparagus officinalis*	B, T, S	20–30	7	21		
Asparagusbean—*Vigna unguiculata* subsp. *sesquipedalis*.	B, T, S	20–30	5	[1]8		
Beans:						
Garden—*Phaseolus vulgaris*	B, T, S	20–30; 25	e	[1]8	Photos 1834, 1835, 1846, 1854, 1855, see, par. (b)(12).	
Lima—*Phaseolus lunatus* var.	B, T, C, S	20–30	5	[1]9	Photos 2380, 2400, 2401	
Runner—*Phaseolus coccineus*	B, T, S	20–30	5	[1]9		
Beet—*Beta vulgaris* var. *vulgaris*	B, T, S	20–30	3	14	See par. (b)(3); photos 19557, 19558	
Broadbean—*Vicia faba*	S, C	20	4	14	See par. (b)(11)	Prechill at 10° C. for 3 days.
Broccoli—*Brassica oleracea* var. *botrytis*	B, P, T	20–30	3	10		Prechill at 5° or 10° C. for 3 days KNO_3 and light.
Burdock, great—*Arctium lappa*	B, T	20–30	7	14		
Brussels sprouts—*Brassica oleracea* var. *gemmifera*.	B, P, T	20–30	3	10		Prechill at 5° or 10° C. for 3 days; KNO_3 and light.
Cabbage—*Brassica oleracea* var. *capitata*	B, P, T	20–30	3	10	Photos 19551, 19552	Do.
Cabbage, Chinese—*Brassica, pekinensis*	B, T	20–30	3	7		
Cabbage, tronchuda—*Brassica oleracea* var. *tronchuda*.	B, P	20–30	3	10	Photos 19551, 19552	Do.
Cardoon—*Cynara cardunculus*	B, T	20–30	7	21	Photos 19547, 19548	
Carrot—*Daucus carota*	B, T	20–30	6	21	Photo 19561	

TABLE 2—Germination Requirements for Indicated Kinds—Continued

Name of seed	Substrata	Temperature (°C)	First count (Days)	Final count (Days)	Additional directions	
					Specific requirements and photo numbers	Fresh and dormant seed
Cauliflower—*Brassica oleracea* var. *botrytis*	B, P, T	20–30	3	10		Prechill at 5° or 10° C. for 3 days; KNO_3 and light.
Celeriac—*Apium graveolens* var. *rapaceum*	P	15–25; 20	10	21	Light; see par. (a)(9)	
Celery—*Apium graveolens* var. *dulce*	P	15–25; 20	10	21	....do	
Chard, Swiss—*Beta vulgaris* var. *cicla*	B, T, S	20–30	3	14	See par. (b)(3)	
Chicory—*Cichorium intybus*	P, TS	20–30	5	14	Light; KNO_3 or soil; photo 2504 see par. (a)(9).	
Chives—*Allium schoenoprasum*	B, T	20	6	14		
Citron—*Citrullus lanatus* var. *citroides*	B, T	20–30	7	14	Soak seeds 6 hours	Test at 30° C.
Collards—*Brassica oleracea* var. *acephala*	B, P, T	20–30	3	10		Prechill at 5° or 10° C. for 3 days; KNO_3 and light.
Corn, sweet—*Zea mays*	B, T, S, TC	20–30; 25	4	7	Photos 2510–2512, 2514	
Cornsalad (Fetticus)—*Valerianella locusta*	B, T	15	7	28		Test at 10°.
Cowpea—*Vigna unguiculata* subsp. *unguiculata*.	B, T, S	20–30	5	8	Photos 1989, 1990, 2377	
Crambe	T	25	3	7		
Cress:						
Garden—*Lepidium sativum*	B, P, T	15	4	10		Light.
Upland—*Barbarea verna*	P, TB	20–35	4	7	Light; KNO_3	
Water—*Nasturtium officinale*	P	20–30	4	14	Light	
Cucumber—*Cucumis sativus*	B, T, S	20–30	3	7	Keep substratum on dry side; see par. (a)(3); photos 19535, 19536.	
Dandelion—*Taraxacum officinale*	P, TB	20–30	7	21	Light; see par. (a)(9)	
Eggplant—*Solanum melongena*	P, TB, RB	20–30	7	14		Light; KNO_3.
Endive—*Cichorium endivia*	P, TS	20–30	5	14	Light; KNO_3 or soil	See par. (b)(6).
Gherkin, West India—*Cucumis anguria*	B, T, S	20–30	3	7		Test at 30° C.
Kale—*Brassica oleracea* var. *acephala*	B, P, T	20–30	3	10		Prechill at 5° or 10° C. for 3 days, KNO_3 and light.
Kale Chinese—*Brassica oleracea* var. *alboglabra*.	B, P, T	20–30	3		Light; KNO_3; prechill at 5° or 10° C. for 3 days..	
Kale, Siberian—*Brassica napus* var. *pabularia*.	B	20–30	3	7		
Kohlrabi—*Brassica oleracea* var. *gongylodes*.	B, P, T	20–30	3	10		Prechill at 5° or 10° C. for 3 days; KNO_3 and light.
Leek—*Allium ampeloprasum*	B, T	20	6	14		
Lettuce—*Lactuca sativa*	P	20	None	7	Light [par. (b)(7)]	Prechill at 10° C. for 3 days or test at 15° C.
Muskmelon (cantaloup)—*Cucumis melo*	B, T, S	20–30	4	10	Keep substratum on dry side [par. (a)(3)]	
Mustard, India—*Brassica juncea*	P	20–30	3	7	Light	Prechill at 10° C. for 7 days and test for 5 additional days; KNO_3.
Mustard, spinach—*Brassica perviridis*	B, T	20–30	3	7		

Okra—*Abelmoschus esculentus* (*hibiscus esculentus*).	B, T	20–30	4	[1] 14	Photos 19543, 19544	
Onion—*Allium cepa*	B, T	20	6	10	Photos 1962, 2253, 2254, 2328, 2330, 2340, 2341, 2469.	
(Alternate method)	S	20	12			
Onion, Welsh—*Allium fistulosum*	B, T	20	10			
Pak-choi—*Brassica chinensis*	B, T	20–30	7			
Parsley—*Petroselinum crispum*	B, T, TS	20–30	11	28		
Parsnip—*Pastinaca sativa*	B, T, TS	20–30	6	28		
Pea—*Pisum sativum*	B, T, S	20	5	[1] 8	Photos 2492, 2496–2500	
Pepper—*Capsicum* spp	TB, RB, T	20–30	6	14		Light and KNO_3.
Pumpkin—*Cucurbita pepo*	B, T, S	20–30	4	7	Keep substratum on dry side [par. (a)(3)]	
Radish—*Raphanus sativus*	B, T	20	4	6	Photos 2554, 19555, 19556	
Rhubarb—*Rheum rhaponticum*	TB, TS	20–30	7	21	Light	
Rutabaga—*Brassica napus* var. *napobrassica*.	B, T	20–30	3	14		
Salsify—*Tragopogon porrifolius*	B, T	15	5	10		Prechill at 10° C. for 3 days.
Sorrel—*Rumex acetosa*	P, TB, TS	20–30	3	14	Light	Test at 15° C.
Soybean—*Glycine max*	B, T, S, TC	20–30; 25	5	[1] 8	Photos 2371, 2372, 2378	
Spinach—*Spinacia oleracea*	TB, RT	15; 10	7	21	Keep substratum on dry side [par. (a)(3)]	
Spinach, New Zealand—*Tetragonia tetragonioides*.	TS	10–30	5	28	do	
(Alternate method)	B, T	15	5	21	Remove pulp from "seeds".	
Squash—*Cucurbita moschata* and *C. maxima*.	B, T, S	20–30	4	7	Keep substratum on dry side [par.(a)(3)]; photo 19537, 19538.	
Tomato—*Lycopersicon esculentum*	B, P, RB, T	20–30	5	14	Photo 2513	Light; KNO_3.
Tomato, husk—*Physalis pubescens*	P, TB	20–30	7	28	Light; KNO_3	
Triticale	B, T, S	20–15	4	7		Prechill at 5° or 10° C. for 5 days, or predry.
Turnip—*Brassica rapa*	B, T	20; 30	3	7		
Watermelon—*Citrullus lanatus*	B, T, S	20–30; 25	4	14	Keep substratum on dry side [par. (a)(3)]	Test at 30° C.

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[1] Hard seeds often present.

[2] Firm ungerminated seeds frequently present.

[3] Rhizomatous derivatives of a johnsongrass × sorghum cross or a johnsongrass × sudangrass cross.

[20 FR 7928, Oct. 21, 1955]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 201.58, see the List of CFR Sections Affected in the Finding Aids section of this volume.

EXAMINATIONS IN THE ADMINISTRATION OF THE ACT

§ 201.58a Indistinguishable seed.

When the identification of the kind, variety, or type of seed or determination that seed is hybrid is not possible by seed characteristics, identification may be based upon the seedling, growing plant, or mature plant characteristics according to such authentic information as is available.

(a) *Ryegrass.* In determining the proportions of perennial and annual or Italian ryegrass seed, 400 seeds shall be grown on filter paper and the number of fluorescent seedlings determined under ultraviolet light at the end of the germination period. The percentages of pure ryegrass seed, normal fluorescent seedlings, and normal nonfluorescent seedlings shall be determined. The percentage of normal fluorescent seedlings or normal nonfluorescent seedlings is the number of each found in the test divided by the total number of seeds in the test. The results shall be applied as follows:

(1) If the quotient obtained by dividing the number of normal fluorescent seedlings by the number of normal seedlings is greater than 75 percent, the following formula shall be used:

Percent annual or Italian ryegrass=(% fluorescent seedlings×% pure ryegrass)/% germination

The percentage of perennial ryegrass is determined by subtracting the percentage of annual or Italian ryegrass found from the percentage of pure ryegrass.

(2) If the quotient referred to in paragraph (a)(1) of this section is 75 percent or less, the following formula shall be used:

Percent perennial ryegrass=(1.0526×% nonfluorescent×% pure ryegrass seedlings)/% germination

The percentage of annual or Italian ryegrass is determined by subtracting the percentage of perennial ryegrass found from the percentage of pure ryegrass.

(3) Varieties of annual or perennial ryegrass having as a characteristic a percentage of fluorescence less than 100 percent for an annual variety or more than 5 percent for a perennial variety shall not be subjected to the formulas in paragraphs (a)(1) and (2) of this section for a determination as to kind. Varieties in commercial channels in the United States which are not subjected to the above formulas include but are not limited to the following:

Ariki.
Magnolia.

(b) *Sweetclover.* In determining the percentage of yellow blossom sweetclover in a mixture of yellow and white blossom sweetclover, at least 400 seeds shall be examined to determine the percentage of mottled seed. The percentage of mottled seed shall be multiplied by four and this product multiplied by the percentage of sweetclover in the sample. The product shall be construed as representing the percentage of yellow blossom sweetclover.

(c) *Wheat.* In determining the varietal purity, the phenol method may be used according to the procedure given in the Association of Official Seed Analysts, Handbook No. 28 "A Standardized Phenol Method for Testing Wheat Seed for Varietal Purity", June 1965.

[5 FR 35, Jan. 4, 1940]

Editorial Note: For Federal Register citations affecting § 201.58a, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 201.58b Origin.

The presence of incidental weed seeds, foreign matter, or any other existing circumstances shall be considered in determining the origin of seed.

[5 FR 35, Jan. 4, 1940. Redesignated at 20 FR 7940, Oct. 21, 1955]

§ 201.58c Detection of captan, mercury, or thiram on seed.

The bioassay method may be used according to the procedure given in Association of Official Seed Analysts, Handbook No. 26, "Microbiological Assay of Fungicide-treated Seeds", May 1964.

[38 FR 12733, May 15, 1973]

TOLERANCES

§ 201.59 Application.

Tolerances shall be recognized between the percentages or rates of occurrence found by analysis, test, or examination in the administration of the act and percentages or rates of occurrence required or stated as required by the act. Tolerances for purity percentages and germination percentages provided for in §§ 201.60 and 201.63 shall be determined from the mean of (a) the results being compared, or (b) the result found by test and the figures shown on a label, or (c) the result found by test and a standard. All other tolerances, including tolerances for pure-live seed and fluorescence, and tolerances for purity based on 10 to 1,000 seeds, seedlings, or plants shall be determined from the result or results found in the administration of the Act.

[5 FR 34, Jan. 4, 1940, as amended at 20 FR 7940, Oct. 21, 1955; 24 FR 3954, May 15, 1959; 35 FR 6108, Apr. 15, 1970]

§ 201.60 Purity percentages.

(a)(1) The tolerance for a given percentage of the purity components is the same whether for pure seed, other crop seed, weed seed, or inert matter. Wider tolerances are provided when more than 33 percent of the sample is composed of seed plus empty florets and/or empty spikelets of the following chaffy kinds: Agropyron spp., Agrostis spp., Andropogon spp., bermudagrass, Bouteloua spp., Bromus spp., buffalograss, buffelgrass, carpetgrass, dallisgrass, Elymus spp., Festuca spp., green panicgrass, guineagrass, Indian ricegrass, meadow foxtail, molassesgrass, orchardgrass, Poa spp., rhodesgrass, sweet vernalgrass, tall oatgrass, vaseygrass, veldtgrass, velvetgrass, and yellow indiangrass. The wider tolerances do not apply to seed devoid of hulls.

(2) To determine the tolerance for any purity percentage found in the administration of the act, the percentage found is averaged (i) with that claimed or shown on a label or (ii) with a specified standard. The tolerance is found from this average. If more than one test is made, all except any test obviously in error shall be averaged and the result treated as a single percentage.

(b) The tolerances found in columns C and D for the respective purity percentages shown in columns A and B of table No. 3 shall be used for (1) unmixed seed and (2) mixtures in which the particle-weight ratio is 1:1 to 1.49:1, inclusive. Tolerances for intermediate percentages not shown in table 3 shall be obtained by interpolation.

TABLE 3—Tolerances for Any Component of a Purity Analysis for (1) Unmixed Seed or (2) Mixed Seed in Which the Particle Weight Ratio Is 1: 1 to 1.49: 1, Inclusive

Average analysis (A)	(B)	Non-chaffy seeds (C)	Chaffy seeds (D)
99.95–100.00	0.00–0.04	0.13	0.16
99.90– 99.94	.05– .09	.20	.23
99.85– 99.89	.10– .14	.24	.29
99.80– 99.84	.15– .19	.28	.34
99.75– 99.79	.20– .24	.32	.37
99.70– 99.74	.25– .29	.35	.41
99.65– 99.69	.30– .34	.37	.45
99.60– 99.64	.35– .39	.40	.48
99.55– 99.59	.40– .44	.42	.50
99.50– 99.54	.45– .49	.44	.53
99.40– 99.49	.50– .59	.47	.57
99.30– 99.39	.60– .69	.51	.60
99.20– 99.29	.70– .79	.54	.64
99.10– 99.19	.80– .89	.57	.66
99.00– 99.09	.90– .99	.59	.70
98.75– 98.99	1.00– 1.24	.64	.75
98.50– 98.74	1.25– 1.49	.71	.82
98.25– 98.49	1.50– 1.74	.76	.89
98.00– 98.24	1.75– 1.99	.82	.95
97.75– 97.99	2.00– 2.24	.87	1.01
97.50– 97.74	2.25– 2.49	.92	1.07
97.25– 97.49	2.50– 2.74	.96	1.12
97.00– 97.24	2.75– 2.99	1.00	1.17
96.50– 96.99	3.00– 3.49	1.06	1.24
96.00– 96.49	3.50– 3.99	1.14	1.34
95.50– 95.99	4.00– 4.49	1.21	1.41
95.00– 95.49	4.50– 4.99	1.27	1.49
94.00– 94.99	5.00– 5.99	1.36	1.60
93.00– 93.99	6.00– 6.99	1.47	1.73
92.00– 92.99	7.00– 7.99	1.56	1.85
91.00– 91.99	8.00– 8.99	1.67	1.96
90.00– 90.99	9.00– 9.99	1.75	2.06
88.00– 89.99	10.00–11.99	1.87	2.19
86.00– 87.99	12.00–13.99	2.01	2.36
84.00– 85.99	14.00–15.99	2.14	2.51
82.00– 83.99	16.00–17.99	2.24	2.64
80.00– 81.99	18.00–19.99	2.35	2.76
78.00– 79.99	20.00–21.99	2.44	2.86
76.00– 77.99	22.00–23.99	2.52	2.96
74.00– 75.99	24.00–25.99	2.59	3.04
72.00– 73.99	26.00–27.99	2.65	3.12
70.00– 71.99	28.00–29.99	2.71	3.19
65.00– 69.99	30.00–34.99	2.80	3.29
60.00– 64.99	35.00–39.99	2.89	3.40
50.00– 59.99	40.00–49.99	2.96	3.48

(c) Tolerances calculated by the following formula shall be used for either chaffy or nonchaffy mixtures when the average particle-weight ratio is 1.5:1 to 20:1 and beyond:

$$T=A-100R[(100A/R)/(B+A/R)-T_1]/[(100B)/(B+A/R)+T]+R[(100A/R)/(B+A/R)-T_1]$$

The symbols used in the formula are as follows:

T = tolerance being calculated.
A = percent which the weight of the component with the heavier average particle weight is of the weight of both components.
B = percent which the weight of the component with the lighter average particle weight is of the weight of both components.
H = average particle weight for the component with the heavier average particle weight.
L = average particle weight for the component with the lighter average particle weight.
R = ratio of the average particle weight for the component with the heavier average particle weight to the average particle weight for the component with the lighter average particle weight. $R=H/L$.
T_1 = regular tolerance for the kind of seed (chaffy or nonchaffy) and for $(100B)/(B+A/R)$.

In determining the values for A and B in the formula, the sample shall be regarded as composed of two parts: (1) The kind, type or variety under consideration and (2) all other components. Values for H and L shall be obtained from the last column of table 1, § 201.46, or by laboratory tests for inert matter, weed seeds, or crop seeds where such values are not obtainable from table 1. In computing tolerances for nonchaffy kinds the values for T_1 are taken from column C of table 3, and for chaffy kinds the values for T_1 are taken from column D of table 3.

[26 FR 10036, Oct. 26, 1961]

§ 201.61 Fluorescence percentages in ryegrasses.

Tolerances for 400-seed fluorescence tests shall be those set forth in the following table plus one-half the regular pure-seed tolerance determined in accordance with § 201.60. When only 200 seeds of a component in a mixture are tested, an additional 2 percent shall be added to the fluorescence tolerance.

PERCENT FOUND	FLUORESCENCE TOLERANCE
100	
99	1.0
98	1.6
97	2.0
96	2.3
95	2.6
94	2.9
93	3.2
92	3.4
91	3.6
90	3.8
89	4.0
88	4.1
87	4.3
86	4.5
85	4.7
84	4.8
83	4.9
82	5.0
81	5.2
80	5.3
79	5.4
78	5.5
77	5.6
76	5.7
75	5.8
74	5.8
73	5.9
72	6.0
71	6.1
70	6.2
69	6.2
68	6.3
67	6.3
66	6.4
65	6.5
64	6.5
63	6.5
62	6.6
61	6.6
60	6.7
59	6.7
58	6.8
57	6.8
56	6.8
55	6.8
54	6.9
53	6.9
52	6.9
51	6.9
50	6.9
49	6.9
48	6.9
47	6.9
46	6.9
45	6.9
44	6.9
43	6.9
42	6.9
41	6.9
40	6.9
39	6.8
38	6.8
37	6.8
36	6.8
35	6.7
34	6.7
33	6.7
32	6.6
31	6.6
30	6.5
29	6.5
28	6.4

PERCENT FOUND FLUORESCENCE TOLERANCE—Continued

27	6.4
26	6.3
25	6.2
24	6.2
23	6.1
22	6.0
21	5.9
20	5.8
19	5.7
18	5.6
17	5.5
16	5.4
15	5.3
14	5.2
13	5.0
12	4.9
11	4.7
10	4.6
9	4.4
8	4.2
7	4.0
6	3.7
5	3.5
4	3.2
3	2.4
2	2.8
1	1.8
0	1.0

[32 FR 12781, Sept. 6, 1967]

§ 201.62 Tests for determination of percentages of kind, variety, type, hybrid, or offtype.

Tolerances for tests for determination of percentages of kind, variety, type, hybrid, or offtype shall be those set forth in the following table, added to one-half the required pure seed tolerances determined in accordance with § 201.60, except that one-half the pure seed tolerance will not be applied in determining tolerances for hybrids labeled on the basis of the percentage of pure seed which is hybrid.

TABLE 4—Tolerances for Purity Tests, When Results Are Based on 10 to 1,000 Seeds, Seedlings, or Plants Used in a Test

Seed, seedling, or plant count percent	Number of seeds, seedlings, or plants in tests										
	10	20	30	50	75	100	150	200	400	600	1,000
100 or 0	0	0	0	0	0	0	0	0	0	0	0
98 or 2	10.3	7.3	6.0	4.6	3.8	3.3	2.7	2.3	1.6	1.2	1.0
96 or 4	14.4	10.2	8.3	6.4	5.3	4.0	3.7	3.2	2.3	1.7	1.5
94 or 6	17.5	12.4	10.1	7.8	6.4	5.5	4.5	3.9	2.9	2.1	1.9
92 or 8	20.0	14.1	11.5	8.9	7.3	6.3	5.2	4.5	3.4	2.4	2.2
90 or 10	22.1	15.7	12.8	9.9	8.1	7.0	5.7	4.9	3.8	2.8	2.4
88 or 12	24.0	17.0	13.8	10.7	8.7	7.6	6.2	5.4	4.1	3.0	2.7
86 or 14	25.7	18.1	14.7	11.4	9.3	8.1	6.6	5.7	4.5	3.2	2.9
84 or 16	26.9	19.0	15.5	12.1	9.8	8.5	7.0	6.0	4.8	3.4	3.0
82 or 18	28.2	20.0	16.4	12.6	10.3	8.9	7.3	6.3	5.0	3.6	3.2
80 or 20	29.5	20.9	16.9	13.2	10.7	9.3	7.6	6.6	5.3	3.8	3.3
78 or 22	30.5	21.6	17.6	13.6	11.0	9.6	7.9	6.8	5.5	3.9	3.5
76 or 24	31.4	22.3	18.2	14.1	11.5	9.9	8.1	7.0	5.7	4.1	3.6
74 or 26	32.3	22.8	18.6	14.4	11.8	10.2	8.3	7.2	5.8	4.2	3.7
72 or 28	33.0	23.4	19.0	14.8	12.1	10.5	8.5	7.4	6.0	4.3	3.8
70 or 30	33.7	23.8	19.5	15.1	12.3	10.7	8.7	7.5	6.2	4.4	3.9
68 or 32	34.3	24.3	19.9	15.4	12.5	10.8	8.9	7.7	6.3	4.5	4.0
66 or 34	35.0	24.7	20.2	15.7	12.7	11.0	9.0	7.8	6.4	4.6	4.0
64 or 36	35.4	25.0	20.5	15.8	12.9	11.2	9.1	7.9	6.5	4.6	4.1
62 or 38	35.5	25.4	20.6	15.9	13.0	11.3	9.2	8.0	6.6	4.7	4.2
60 or 40	36.1	25.7	20.9	16.1	13.2	11.4	9.3	8.1	6.7	4.8	4.2
58 or 42	36.2	25.7	21.0	16.2	13.3	11.5	9.4	8.1	6.8	4.8	4.2
56 or 44	36.5	25.8	21.0	16.4	13.3	11.5	9.4	8.2	6.8	4.8	4.3
54 or 46	36.8	25.8	21.2	16.4	13.4	11.6	9.5	8.2	6.9	4.9	4.3
52 or 48	36.8	25.9	21.2	16.5	13.4	11.6	9.5	8.2	6.9	4.9	4.3
50	36.8	25.9	21.3	16.5	13.4	11.6	9.5	8.2	6.9	4.9	4.3

[32 FR 12781, Sept. 6, 1967, as amended at 33 FR 10841, July 31, 1968; 35 FR 6108, April 15, 1970]

§ 201.63 Germination.

The following tolerances are applicable to the percentage of germination and also to the sum of the germination plus the hard seed when 400 or more seeds are tested.

Mean (See § 201.59)	Tolerance
96 or over	5
90 or over but less than 96	6
80 or over but less than 90	7
70 or over but less than 80	8
60 or over but less than 70	9
Less than 60	10

When only 200 seeds of a component in a mixture are tested 2 percent shall be added to the above germination tolerances.

[15 FR 2399, Apr. 28, 1950, as amended at 20 FR 7940, Oct. 21, 1955]

§ 201.64 Pure live seed.

The tolerance for pure live seed shall be determined by applying the respective tolerances to the germination plus the hard seed and the pure seed.

[5 FR 35, Jan. 4, 1940. Redesignated at 20 FR 7940, Oct. 21, 1955]

§ 201.65 Noxious weed seeds in interstate commerce.

Tolerances for rates of occurrence of noxious weed seeds shall be recognized and shall be applied to the number of noxious weed seeds found by analysis in the quantity of seed specified for noxious weed seed determinations in §§ 201.46 and 201.52. Applicable tolerances are calculated by the formula, $Y=X+1+1.96\sqrt{X}$, where X is the number labeled or represented and Y is the maximum number within tolerance. Some tolerances are listed below. Representations showing the rate of occurrence indicated in Column X will be considered within tolerance if not more than the corresponding number in Column Y are found by analysis in the administration of the Act. For numbers of seeds greater than those in the table and in case of additional or more extensive analyses, a tolerance based on a degree of certainty of 5 percent ($P=0.05$) will be recognized.

Number labled or represented (X)	Maximum number within tolerances (Y)	Number labeled or represented (X)	Maximum number within tolerances (Y)
0	2	16	24
1	4	17	25
2	6	18	27
3	8	19	28
4	9	20	29
5	11	21	30
6	12	22	32
7	13	23	33
8	14	24	34
9	16	25	35
10	17	26	37
11	18	27	38
12	20	28	39
13	21	29	41
14	22	30	42
15	23		

[5 FR 35, Jan. 4, 1940, as amended at 15 FR 2399, Apr. 28, 1950. Redesignated at 20 FR 7940, Oct. 21, 1955, and amended at 26 FR 10036, Oct. 26, 1961; 32 FR 12782, Sept. 6, 1967]

§ 201.66 Noxious-weed seeds in imported seed.

The tolerance applicable to the prohibition of noxious-weed seeds in imported seed shall be two seeds in the minimum amount required to be examined as shown in Table 1, § 201.46. If more than one test is made, all test results within tolerance of each other shall be averaged, and the result treated as the result found.

[32 FR 12782, Sept. 6, 1967]

CERTIFIED SEED

§ 201.67 Seed certifying agency standards and procedures.

In order to qualify as a seed certifying agency for purposes of section 101(a)(25) of the Federal Seed Act (7 U.S.C. 1551(a)(25)) an agency must enforce standards and procedures, as conditions for its certification of seed, that meet or exceed the standards and procedures specified in §§ 201.68 through 201.78.

[38 FR 25662, Sept. 14, 1973]

§ 201.68 Eligibility requirements for certification of varieties.

The certifying agency shall require the originator, developer, or owner of the variety, or agent thereof, to make the following available when eligibility for certification is requested:

(a) The name of the variety.

(b) A statement concerning the variety's origin and the breeding procedure used in its development.

(c) A detailed description of the morphological, physiological, and other characteristics of the plants and seed that distinguish it from other varieties.

(d) Evidence supporting the identity of the variety, such as comparative yield data, insect and disease resistance, or other factors supporting the identity of the variety.

(e) A statement delineating the geographic area or areas of adaptation of the variety.

(f) A statement on the plans and procedures for the maintenance of seed classes, including the number of generations through which the variety may be multiplied.

(g) A description of the manner in which the variety is constituted when a particular cycle of reproduction or multiplication is specified.

(h) Any additional restrictions on the variety, specified by the breeder, with respect to geographic area of seed production, age of stand or other factors affecting genetic purity.

(i) A sample of seed representative of the variety as marketed.

[38 FR 25662, Sept. 14, 1973]

§ 201.69 Classes of certified seed.

(a) Classes of certified seed are as follows:

(1) Breeder.
(2) Foundation.
(3) Registered.
(4) Certified.

[38 FR 25662, Sept. 14, 1973]

§ 201.70 Limitations of generations for certified seed.

The number of generations through which a variety may be multiplied shall be limited to that specified by the originating breeder or owner and shall not exceed two generations beyond the Foundation seed class with the following exceptions which may be made with the permission of the originating or sponsoring plant breeder, institution, or his designee:

(a) Recertification of the Certified class may be permitted when no Foundation seed is being maintained.

(b) The production of an additional generation of the Certified class may be permitted on a 1-year basis only, when an emergency is declared by any official seed certifying agency stating that the Foundation and Registered seed supplies are not adequate to plant the needed Certified acreage of the variety. The additional generation of Certified seed to meet the emergency need is ineligible for recertification.

[38 FR 25662, Sept. 14, 1973; 38 FR 26800, Sept. 26, 1973, as amended at 46 FR 53639, Oct. 29, 1981]

§ 201.71 Establishing the source of all classes of certified seed.

The certifying agency shall have evidence of the class and source of seed used to plant each crop being considered for certification.

[38 FR 25662, Sept. 14, 1973]

§ 201.72 Production of all classes of certified seed.

(a) Each certifying agency shall determine that genetic purity and identity are maintained at all stages of certification including seeding, harvesting, processing, and labeling of the seed.

(b) The unit of certification shall be a clearly defined field or fields.

(c) One or more field inspections shall be made (1) previous to the time a seed crop of any class of certified seed is to be harvested, and (2) when genetic purity and identity can best be determined. The field shall be in suitable condition to permit an adequate inspection to determine genetic purity and identity.

(d) A certification sample shall be drawn in a manner approved by the certifying agency from each cleaned lot of seed eligible for certification. Evidence that any lot of seed has not been protected from contamination which might affect genetic purity, or is not properly identified, shall be cause for possible rejection of certification.

[38 FR 25662, Sept. 14, 1973]

§ 201.73 Processors and processing of all classes of certified seed.

The following requirements must be met by processors of all classes of certified seed:

(a) Facilities shall be available to perform processing without introducing admixtures.

(b) Identity of the seed must be maintained at all times.

(c) Records of all operations relating to certification shall be complete and adequate to account for all incoming seed and final disposition of seed.

(d) Processors shall permit inspection by the certifying agency of all records pertaining to all classes of certified seed.

(e) Processors shall designate an individual who shall be responsible to the certifying agency for performing such duties as may be required by the certifying agency.

(f) Seed lots of the same variety and class may be blended and the class retained. If lots of different classes are blended, the lowest class shall be applied to the resultant blend. Such blending can only be done when authorized by the certifying agency.

[38 FR 25662, Sept. 14, 1973]

§ 201.74 Labeling of all classes of certified seed.

(a) All classes of certified seed when offered for sale shall have an official certification label affixed to each container clearly identifying the certifying agency, the lot number or other identification, the variety name (if certified as to variety) and the kind and class of seed.

(b) In the case of seed sold in bulk, the invoice or accompanying document shall identify the certifying agency, the crop kind, variety (if certified as to variety), class of seed, and the lot number or other identification.

(c) The official certification label may be printed directly on the container when an accounting of the containers is required by the certifying agency.

(d) Labels other than those printed on the containers shall be attached to containers in a manner that prevents removal and reattachment without tampering being obvious.

[38 FR 25662, Sept. 14, 1973, as amended at 46 FR 53639, Oct. 29, 1981]

§ 201.75 Interagency certification.

Interagency certification may be accomplished by participation of more than one official certifying agency in performing the services required to certify a lot of seed.

(a) The certifying agency issuing labels for all classes of certified seed shall require the seed on which the labels are used to meet standards at least equal to the minimum genetic standards for the seed in question as specified in Table 5 of this part.

(b) Seed to be recognized for interagency certification must be received in containers carrying official certification labels, or if shipped for processing, evidence of its eligibility from another official certifying agency, together with the following information:

(1) Variety (if certified as to variety) and kind;

(2) Quantity of seed (pounds or bushels);

(3) Class of certified seed;

(4) Inspection or lot number traceable to the previous certifying agency's records.

(c) Each label used in interagency certification shall be serially numbered or carry the certification identity number and clearly identify the certifying agencies involved, and the variety (if certified as to variety), kind and class of certified seed.

[38 FR 25662, Sept. 14, 1973; 38 FR 26800, Sept. 26, 1973]

§ 201.76 Minimum land, isolation, field and seed standards.

In the following Table 5 the figures in the "Land" column indicate the number of years that must elapse between the destruction of a stand of a kind and establishment of a stand of a specified class of a variety of the same kind. The figures in the "Isolation" column indicate the distance in feet from any contaminating source. The figures in the "Field" column indicate the minimum number of plants or heads in which one plant or head of another variety is permitted. The figures in the "Seed" column indicate the maximum percentage of seed of other varieties or off-types permitted in the cleaned seed.

TABLE 5

Crop	Foundation				Registered				Certified			
	Land	Isolation	Field	Seed	Land	Isolation	Field	Seed	Land	Isolation	Field	Seed
Alfalfa:												
Nonhybrid	[1]4	[44, 48]600	1,000	0.1	[1]3	[3, 44, 48]300	400	0.25	[1, 2]1	[44, 49]165	100	1.0
Hybrid	[1]4	[43]1,320	[48]1,000	0.1					[1, 2]1	[3, 45, 44]165	[48]100	1.0
Barley:												
Nonhybrid	[7]1	[23]0	3,000	0.05	[7]1	[23]0	2,000	0.1	[7]1	[23]0	1,000	0.2
Hybrid	[20]1	[21, 22]660	3,000	0.05	[20]1	[21, 22]660	2,000	0.1	[20]1	[21, 22]330	1,000	0.2
Beans:												
Field and garden	[7]1	[23]0	2,000	0.05	[7]1	[23]0	1,000	0.1	[7]1	[23]0	500	0.2
Mung	[7]1	[23]0	2,000	0.1	[7]1	[23]0	1,000	0.2	[7]1	[23]0	500	0.5
Broadbean	[7]1	[23]0	2,000	0.05	[7]1	[23]0	1,000	0.1	[7]1	[23]0	500	0.2
Clover (all kinds)	[1, 9]5	[3, 18, 44]600	1,000	0.1	[1, 9]3	[4, 18, 44]300	400	0.25	[1, 9]2	[18, 44]165	100	1.0
Corn:												
Backcross	0	[10, 11]660	[12, 46]1,000	[15]0.1								
Inbred	0	[10, 11]660	[12, 46]1,000	[15]0.1								
Foundation single cross	0	[10, 11]660	[12, 46]1,000	[15]0.1								
Hybrid									0	[11, 12]660		0.5
Open-pollinated									0	[11, 13]660	200	0.5
Sweet									0	[11, 14]660		0.5
Cotton	0	[19]0	10,000	0.03	0	[19]0	5,000	0.05	0	[19]0	1,000	0.1
Cowpea	[7]1	[23]0	2,000	0.1	[7]1	[23]0	1,000	0.2	[7]1	[23]0	500	0.5
Crambe	[7]1	660	2,000	0.05	[7]1	[24]660	1,000	0.1	[7]1	[24]660	500	0.25
Crownvetch	[1]5	[3, 44]600	1,000	0.1	[1]3	[3, 44]300	400	0.25	[1]2	[3, 44]165	100	1.0
Flatpea	[1]4	[3, 44]600	1,000	0.1	[1]3	[2, 3, 44]300	400	0.25	[1, 2]1	[3, 44]165	100	1.0
Flax	[7]1	[23]0	5,000	0.05	[7]1	[23]0	2,000	0.1	[7]1	[23]0	1,000	0.2
Grasses:												
Cross-pollinated	5	[4, 18, 20]900	1,000	0.1	[8]1	[4, 18, 20]300	100	1.0	[8]1	[4, 18, 20]165	50	[47]2.0
Strains at least 80 percent apomictic and highly self-fertile species	5	[4, 18, 20]60	1,000	0.1	[8]1	[4, 18, 20]30	100	1.0	[8]1	[4, 18, 20]15	50	[16]2.0
Lespedeza	[1]5	[4]10	1,000	0.1	[1]3	[4]10	400	0.25	[1]2	[4]10	100	1.0
Millet:												
Cross-pollinated	[8]1	[40]1,320	[37]20,000	0.005	[8]1	[40]1,320	[37]10,000	0.01	[8]1	[40]660	[37]5,000	0.02
Self-pollinated	[8]1	[23]0	3,000	0.05	[8]1	[23]0	2,000	0.1	[8]1	[23]0	1,000	0.2
Mustard	4	1,320	2,000	0.05					2	[24]660	500	0.25
Oat	[7]1	[23]0	3,000	0.2	[7]1	[23]0	2,000	0.3	[7]1	[23]0	1,000	0.5
Okra	[7]1	1,320	[27]0	0.0	[7]1	1,320	[27]2,500	0.5	[7]1	825	[27]1,250	1.0
Onion	[7]1	5,280	[28]200	0.0	[7]1	2,640	[28]200	[28]0.5	[7]1	1,320	[28]200	[28]1.0
Pea, field	[7]1	[23]0	2,000	0.05	[7]1	[23]0	1,000	0.1	[7]1	[23]0	500	0.2
Peanut	[7]1	[23]0	1,000	0.1	[7]1	[23]0	500	0.2	[7]1	[23]0	200	0.5
Pepper	[7]1	[30]200	0	0.0	[7]1	[30]100	300	0.5	[7]1	[30]30	150	1.0

Rape:												
Cross-pollinated	4	[34]1,320	2,000	0.05					2	[34]330	500	0.25
Self-pollinated	4	[34]660	2,000	0.05					2	[34]330	500	0.25
Rice	[7]1	[30]10	10,000	0.05	[7]1	[30]10	5,000	0.1	[7]1	[30]10	1,000	0.2
Rye	[7]1	[18]660	3,000	0.05	[7]1	[18]660	2,000	0.1	[7]1	[18]660	1,000	0.2
Safflower	[7]2	1,320	10,000	0.01	[7]2	1,320	2,000	0.05	[7]2	1,320	1,000	0.1
Sainfoin	[1]5	[5, 44]600	1,000	0.1	[1]3	[5, 44]300	400	0.25	[1]2	[5, 44]165	100	1.0
Sorghum:												
Nonhybrid	[7]1	990	[27]50,000	0.005	[7]1	990	[27]35,000	0.01	[7]1	[30]660	[27]20,000	0.05
Hybrid seedstock	[7]1	990	[27]50,000	0.005								
Commercial hybrid									[7]1	[21, 28, 31]660	[27]20,000	0.1
Soybeans	[33]1	[33]0	1,000	0.1	[33]1	[33]0	500	0.2	[33]1	[33]0	200	0.5
Sunflower:												
Nonhybrid	1	[41, 43]2,640	200	0.02	1	[41, 43]2,640	200	0.02	1	[41, 43]2,640	200	[34]0.1
Hybrid	1	[41, 43]2,640	[38]230	0.02					1	[41, 43]2,640	[38]250	[34]0.1
Tomato	[7]1	[38]200	0	0	[7]1	[38]100	300	0.5	[7]1	[38]30	150	1.0
Tobacco:												
Nonhybrid	[38]0	[37]150	0	0.01	[38]0	[37]150	0	0.01	[38]0	[37]150	0	0.01
Hybrid									[38]0	[38]150	0	0.01
Trefoil, birdsfoot	[1]5	[5, 44]600	1,000	0.1	[1]3	[5, 44]300	400	0.25	[1]2	[5, 44]165	100	1.0
Triticale	[7]1	[33]0	3,000	0.05	[7]1	[33]0	2,000	0.1	[7]1	[33]0	1,000	0.2
Vetch	[1, 7]5	[11, 44]10	1,000	0.1	[1, 7]3	[11, 44]10	400	0.25	[1, 7]2	[11, 44]10	100	1.0
Vetch, milk	[1]5	[5, 44]600	2,000	0.05	[1]3	[5, 44]300	1,000	0.1	[1]2	[5, 44]165	200	0.5
Watermelon	[7]1	[36]2,640	[33]0	0	[7]1	[36]2,640	[33]0	0.5	[7]1	[36]1,320	[33]500	1.0
Wheat:												
Nonhybird	[7]1	[33]0	3,000	0.05	[7]1	[33]0	2,000	0.1	[7]1	[33]0	1,000	0.2
Hybrid	[30]1	[31, 32]660	3,000	0.05	[30]1	[31, 32]660	2,000	0.1	[30]1	[31, 32]330	1,000	0.2

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[1] The land must be free of volunteer plants of the crop kind during the year immediately prior to establishment and no manure or other contaminating material shall be applied the year previous to seeding or during the establishment and productive life of the stand.

[2] At least 2 years must elapse between destruction of indistinguishable varieties or varieties of dissimilar adaptation and establishment of the stand for the production of the Certified class of seed.

[3] Isolation distance for certified seed production shall be at least 500 feet from varieties of dissimilar adaptation.

[4] Isolation between classes of the same variety may be reduced to 25 percent of the distance otherwise required.

[5] This distance applies when fields are 5 acres or larger in area. For smaller fields, the distances are 900 feet and 450 feet for the Foundation and Registered classes, respectively.

[6] Fields of less than 5 acres require 330 feet.

[7] Requirement is waived if the previous crop was grown from certified seed of the same variety.

[8] Requirement is waived if the previous crop was of the same variety and of a certified class equal or superior to that of the crop seeded.

[9] Reseeding varieties of crimson clover may be allowed to volunteer back year after year on the same ground. If a new variety is being planted where another variety once grew, the field history requirements apply.

[10] No isolation is required for the production of hand-pollinated seed.

[11] When the contaminant is of the same color and texture, the isolation distance may be modified by (1) adequate natural barriers, or (2) differential maturity dates, provided there are no receptive silks in the seed parent at the time the contaminant is shedding pollen. In the case of inbred lines and foundation single crosses, these modifications may apply only for fertile seed production.

[12] Where the contaminating source is corn of the same color and texture as that of the field inspected, the isolation distance is 410 feet and may be modified by the planting of pollen parent border rows according to the following table:

MINIMUM NUMBERS OF BORDER ROWS REQUIRED

Minimum distance from contaminant	Field size, up to 20 acres	Field size, 20 acres or more
410	0	0
370	2	1
330	4	2
290	6	3
245	8	4
205	10	5
165	12	6
125	14	7
85	16	8
0	(1)	10

[1] Not permitted.

[13] Refers to off-type plants in the pollen parent that have shed pollen or to the off-type plants in the seed parent at the time of the last inspection.

[14] The required minimum isolation distance for sweet corn is 660 feet from the contaminating source, plus four border rows when the field to be inspected is 10 acres or less in size. This distance may be decreased by 15 feet for each increment of 4 acres in the size of the field to a maximum of 40 acres, and further decreased 40 feet for each additional border row to a maximum of 16 rows. These border rows are for pollen-shedding purposes only.

[15] Refers to off-type ears. Ears with off-colored or different textured kernels are limited to 0.5 percent, or a total of 25 off-colored or different textured kernels per 1,000 ears.

[16] The Merion variety of Kentucky bluegrass is allowed 3 percent.

[17] All cross-pollinating varieties must be 400 feet from any contaminating source.

[18] Isolation between diploids and tetraploids shall be a least 15 feet.

[19] Minimum isolation shall be at least 100 feet if the cotton plants in the contaminating source differ by easily observable morphological characteristics from the field to be inspected. Isolation distance between upland and Egyptian types shall be at least 1,320, 1,320, and 660 feet for Foundation, Registered, and Certified classes, respectively.

[20] These distances apply when there is no border removal. Border removal applies only to fields of 5 acres or more. Removal of a 9-foot border (after flowering) decreases the required distance for Foundation, Registered, and Certified seed to 600, 225, and 100 feet, respectively, for cross-pollinated species, and to 30, 15, and 15 feet, respectively, for apomictic and self-pollinated species. Removal of a 15 foot border (after flowering) allows a further decrease to 450, 150, and 75 feet, respectively, for cross-pollinated species.

[21] Isolation distances between two fields of the same kind may be reduced to a distance adequate to prevent mechanical mixture, if the sum of percentages of plants in bloom in both fields does not exceed 5 percent at a time when more than 1 percent of the plants in either field are in bloom.

[22] Refers to bulbs.

[23] Distance adequate to prevent mechanical mixture is necessary.

[24] Required isolation between classes of the same variety is 10 feet.

[25] The minimum distance may be reduced by 50 percent if different classes of the same variety are involved.

[26] The minimum distance may be reduced by 50 percent if the field is adequately protected by natural or artificial barriers.

[27] These ratios are for definite other varieties. The ratios for doubtful other varieties are:

	Foundation	Registered	Certified
Millet	1:10,000	1:5,000	1:2,500
Sorghum:			
Nonhybrid	1:20,000	1:10,000	1:1,000
Hybrid	1:20,000	(1)	1:1,000
Okra	None	1:750	1:500

[1] Not applicable.

[28] Whiteheart fruits may not exceed 1 per 100, 40 and 20 for Foundation, Registered, and Certified classes, respectively. Citron or hard rind is not permitted in Foundation or Registered classes and may not exceed 1 per 1,000 fruits in the Certified class.

[29] This distance applies if the contaminating source does not genetically differ in height from the pollinator parent or has a different chromosome number. If the contaminating source does (genetically) differ and has the same chromosome number the distance shall be 990 feet. The minimum isolation from grass sorghum or broomcorn with the same chromosome number shall be 1,320 feet.

[30] Requirement is waived for the production of pollinator lines if the previous crop was grown from a certified class of seed of the same variety. Sterile lines and crossing blocks must be on land free of contaminating plants.

[31] If the contaminating source is similar to the hybrid in all important characteristics, the isolation may be reduced by 66 feet for each pair of border rows of the pollinator parent down to a minimum of 330 feet. These rows must be located directly opposite or diagonally to the contaminating source. The pollinator border rows must be shedding pollen during the entire time 5 percent or more of the seed parent flowers are receptive.

[32] An unplanted strip at least 2 feet in width shall separate male sterile plants and pollinator plants in inter-planted blocks.

[33] Unless the preceding crop was another kind or unless the preceding soybean crop was planted with a class of certified seed of the same variety, or unless the preceding soybean crop and the variety being planted are of contrasting pubescence or hilum color, in which case, no time need elapse.

[34] May include not more than 0.04 percent purple or white seeds.

[35] Standards apply equally to seed parents and pollen parents which may include up to 1:1,000 plants each of the wild-type branching, purple or white-seeded plants.

[36] A new plant bed must be used each year unless the bed is properly treated with a soil sterilant prior to seeding.

[37] This distance is applied between varieties of the same type and may be waived if four border rows of each variety are allowed to bloom and set seed between the two varieties but are not harvested for seed. Isolation between varieties of different types shall be 1,320 feet except if protected by bagging or by topping all plants in the contaminating source before bloom.

[38] When male sterile and male fertile plants of the same type are planted adjacent in a field, this requirement may be waived; provided, four border rows of male sterile plants are allowed to bloom and set seeds. The seed from these border rows shall not be harvested as part of the certified lot of seed produced by the male sterile plants. When plants are of different types, the distance shall be 1,320 feet except if protected by bagging or by topping all plants in the contaminating source before bloom.

[39] Isolation between varieties shall be 100 feet if aerial seeded and 50 feet if ground broadcast.

[40] Isolation between millets of different genera shall be 6 feet.

[41] Does not apply to Helianthus similies, H. ludens, or H. agrestis.

[42] The ratio of male sterile (A) strains and pollen (B or C) strains shall not exceed 2:1.

[43] Parent lines (A and B) in a crossing block, or seed and pollen lines in a hybrid seed production field, shall be separated by at least 6 feet and shall be managed and harvested in a manner to prevent mixing.

[44] Distance between fields of certified classes of the same variety may be reduced to 10 feet regardless of the class or size of the fields.

[45] An isolation distance of 5,280 feet is required between oil and non-oil sunflower types and between either type and other volunteers or wild types.

[46] Detasseling, cutting, or pulling of the cytoplasmic male-sterile seed parent is permitted.

[47] All varieties of perennial ryegrass seed are allowed 3.0 percent.

[48] This distance applies for fields over 5 acres. For alfalfa fields of 5 acres or less that produce the Foundation and Registered seed classes, the minimum distance from a different variety or a field of the same variety that does not meet the varietal purity requirements for certification shall be 900 and 450 feet, respectively.

[49] There must be at least 10 feet or a distance adequate to prevent mechancial mixture between a field of another variety (or noncertified area within the same field) and the area being certified. The 165 feet isolation requirement is waived if the area of the "isolation zone" is less than 10 percent of the field eligible for the Certified class. The "isolation zone" is that area calculated by multiplying the length of the common border(s) with other varieties of alfalfa by the average width of the field (being certified) falling within the 165 feet isolation. Areas within the isolation zone nearest the contamination source shall not be certified.

[46 FR 53639, Oct. 29, 1981; 46 FR 58050, Nov. 30, 1981; 46 FR 59527, Dec. 7, 1981]

ADDITIONAL REQUIREMENTS FOR THE CERTIFICATION OF PLANT MATERIALS OF CERTAIN CROPS

§ 201.77 Length of stand requirements.

(a) *Alfalfa.* Limitations on the age of stand and certified seed classes through which a given variety may be multiplied both inside and outside its region of adaptation shall be specified by the originator or his designee. Certified seed production outside the region of adaptation shall not exceed 6 years if not otherwise specified by the originator, or his designee.

(b) *Red clover.* Only two seed crops are permitted of all certified seed classes.

(c) *White and alsike clover.* Only two successive seed crops are permitted following the year of establishment for Foundation and Registered classes, but 2 additional years are permitted if the field is reclassified to the next lower class. Four successive seed crops following seeding are permitted if the first and succeeding crops are of the Certified class, provided the stand of perennial plants is maintained.

(d) *Sainfoin.* All certified seed classes are eligible to produce five successive seed crops following seeding.

[38 FR 25664, Sept. 14, 1973]

§ 201.78 Pollen control for hybrids.

(a) *Wheat and barley.* Shedders in the seed parent, at any one inspection, are limited to 1:200 heads for Foundation A Line and 1:100 heads for Registered A Line, except that when the A Line is increased outside the area of the anticipated A x R production in order to utilize self-fertility produced by environmental effects, only isolation and genetic purity standards will be in effect. (An A Line is a cytoplasmic male sterile female line used to produce hybrid seed. An R Line is a pollinator line used to pollinate an A Line and to restore fertility in the resulting hybrid seed.)

(b) *Corn.* When 5 percent or more of the seed parent plants have receptive silks, shedding tassels in the seed parent plants shall be limited to 1 percent at any one inspection, or a total of 2 percent at any three inspections on different dates. Shedding tassels are those which have 2 inches or more of the central stem or branches, or any combination thereof, shedding pollen.

(c) *Sorghum.* Shedders in the seed parent, at any one inspection, are limited to 1:3,000 plants for Foundation class and 1:1,500 plants for Certified class.

(d) *Sunflowers.* Seed parents flowering and shedding pollen before the male parents are shedding pollen must be removed. At least 50 percent of the male plants must be producing pollen when the seed parent is in full bloom.

(e) *Hybrid alfalfa.* When at least 75 percent of the plants are in bloom and there is no more than 15 percent seed set, 200 plants shall be examined to determine the pollen production index (PPI). Each plant is rated as 1, 2, 3 or 4 with "1" representing no pollen, "2" representing a trace of pollen, "3" representing substantially less than normal pollen, and "4" representing normal pollen. The rating is weighted as 0, 0.1, 0.6 or 1.0, respectively. The total number of plants of each rating is multiplied by the weighted rating and the values are totaled. The total is divided by the number of plants rated and multiplied by 100 to determine the PPI. The maximum PPI allowed is 14 for the Foundation class, and 6 for 95 percent hybrid seed, and 42 for 75 percent hybrid seed of the Certified class.

[38 FR 25664, Sept. 14, 1973, as amended at 41 FR 20158, May 17, 1976]

IMPORTED SEED

§ 201.101 Exemptions.

For the purpose of section 302(c)(2) the act, seeds of the following kinds are found to be imported in a substantial proportion for other than seeding purposes and are exempted from the import provisions (Title III) of the act when imported for other than seeding purposes: *Provided,* That they are accompanied by declarations when and as required under § 201.222:

Barley.
Bean, Adzuki.
Bean, field.
Bean, horse or broad.
Bean, lima.
Bean, Mung.
Buckwheat, common.

Canary grass.
Castorbean.
Celery.
Chickpea.
Corn, field.
Cowpea.
Crambe.
Flax.
Guar.
Hemp.
Lentil.
Lettuce.
Lupine.
Millet, foxtail, German, Hungarian, or golden.
Millet, proso.
Mustard.
Mustard, black.
Mustard, white.
Oat.
Parsley.
Pea.
Pea, field.
Peanut.
Pepper.
Pumpkin.
Rape, annual.
Rape, bird.
Rape, turnip.
Rape, winter.
Rice.
Rye.
Safflower.
Sesame.
Sorghum.
Soybean.
Sunflower.
Triticale.
Velvetbean.
Vetch.
Watermelon.
Wheat.

[5 FR 35, Jan. 4, 1940]

EDITORIAL NOTE: For Federal Register citations affecting § 201.101, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 201.102 Pure live seed.

(a) For the purposes of section 304(c) of the act, the following percentages for the kinds stated will be construed to meet the import requirements of the act as to pure live seed:

	Percent
Alfileria	50
Artichoke	65
Bahia grass	50
Bluegrass, Poa spp	65
Bluestem, big	25
Bluestem, little	25
Bluestem, sand	25
Bluestem, yellow	25
Beets	70
Buffalo grass (burs)	35
Buffelgrass	50
Burdock, great	60
Cardoon	65
Carrots	55
Celeriac	60
Celery	60
Chicory	70
Chives	50
Cress, water	50
Dallis grass	35
Dandelion	65
Dropseed, sand	65
Eggplant	65
Grama, blue	35
Grama, side oats	10
Guinea grass	10
Indian grass, yellow	50
Japanese lawn grass	35
Johnsongrass	65
Leek	65
Lovegrass, sand	50
Manila grass	35
Molasses grass	25
Okra	60
Panic grass, blue	50
Panic grass, green	10
Parsley	65
Parsnip	65
Pepper	65
Rhodes grass	35
Rhubarb	65
Sorghum almum	65
Sorrel	65
Spinach, New Zealand	50
Switch grass	35
Tomato, husk	60
Vasey grass	35
Veldtgrass	25
Wheatgrass, western	65
Wild rye, Canada	50
Wild-rye, Russian	60

(b) As provided in section 302(a) of the Act, a certain number of samples of seed representing seed lots offered for importation will not be tested to determine whether the purelive seed requirement is being met, in which case, the importer shall be so advised by the Seed Branch, Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture.

[15 FR 2400, Apr. 28, 1950, as amended at 20 FR 7940, Oct. 21, 1955; 25 FR 8774, Sept. 13, 1960; 26 FR 10036, Oct. 26, 1961; 30 FR 7892, June 18, 1965; 32 FR 12782, Sept. 6, 1967]

§ 201.103 Unadapted alfalfa and red clover.

Alfalfa seed and red clover seed of foreign origin other than the Dominion of Canada have been determined to be unadapted for general agricultural use in the United States.

[6 FR 3960, Aug. 8, 1941]

§ 201.104 Staining of imported seed.

(a) 10 percent of the seed in each container of the seed of alfalfa or red clover grown in any foreign country other than the countries of South America and the Dominion of Canada shall be stained red;

(b) 10 percent of the seed in each container of the seed of alfalfa or red clover grown in any of the countries of South America shall be stained orange-red;

(c) 1 percent of the seed in each container of the seed of alfalfa or red clover grown in the Dominion of Canada shall be stained violet;

(d) 10 percent of the seed in each container of the seed of alfalfa or red clover shall be stained red;

(1) If the origin of alfalfa or red clover is unestablished;

(2) If the origin of alfalfa or red clover is such as to require different colors; and

(3) If the alfalfa or red clover of foreign origin has been commingled with seed of the same kind grown in the United States.

[6 FR 3960, Aug. 8, 1941]

§ 201.105 Method of staining.

The stain shall be in the form of a solution of such concentration as to stain the seeds distinctly with the colors prescribed. The designated portion of the seed to be stained shall be completely and distinctly stained the prescribed color and blended with the unstained seed in accordance with instructions that may be issued from time to time by the Consumer and Marketing Service.

[5 FR 35, Jan. 4, 1940]

§ 201.106 Supervision of staining.

Seed required to be stained and found not to have been stained prior to arrival in the United States shall not be permitted entry until it has been stained under the supervision of an employee or authorized agent of the United States Department of Agriculture. The staining in such case shall be at the expense of the owner or consignee who shall reimburse the Government for all expenses incurred in connection with such supervision, including travel, per diem or subsistence, and salaries of the officers or employees of the United States. Travel and per diem or subsistence expenses shall be reimbursed at the rate allowed for employees of the United States in accordance with Standardized Government Travel Regulations. Salary shall be reimbursed at the average rate paid to employees engaged in supervisions activities plus average related costs.

[5 FR 35, Jan. 4, 1940, as amended at 24 FR 8954, May 15, 1959; 26 FR 10036, Oct. 26, 1961]

§ 201.107 Weed seeds.

(a) When occurring in importations subject to the Act, seeds or bulbets of all plants belonging to the following plant families, except those listed as agricultural or vegetable seeds, or recognized as seeds of ornamentals, are detrimental to the agricultural interests of the United States, or a part thereof, and therefore are considered weed seeds.

PLANT FAMILIES

Aizoaceae—Carpetweed.
Amaranthaceae—Amaranth or pigweed.
Anacardiaceae—Sumac.
Apocynaceae—Dogbane.
Asclepiadaceae—Milkweed.
Boraginaceae—Borage.
Campanulaceae—Bluebell.
Capparidaceae—Caper.
Caryophyllaceae—Pink.
Chenopodiaceae—Goosefoot.
Commelinaceae—Spiderwort.
Compositae—Composite or daisy.
Convolvulaceae—Morning-glory.
Crassulaceae—Orpine.
Cruciferae—Mustard.
Cucurbitaceae—Cucurbit.
Cyperaceae—Sedge.
Dipsacaceae—Teasel.
Euphorbiaceae—Spurge.
Geraniaceae—Geranium.
Gramineae—Grass.
Hydrophyllaceae—Waterleaf.
Hypericaceae—St. Johnswort.
Illecebraceae—Knotweed.
Iridaceae—Iris.
Juncaceae—Rush.
Labiatae—Mint.
Leguminosae—Legume.
Liliaceae—Lily.

Lobeliaceae—Lobelia.
Lythraceae—Loosestrife.
Malvaceae—Mallow.
Nyctaginaceae—Four-o'clock.
Onagraceae—Evening-primrose.
Oxalidaceae—Wood sorrel.
Papaveraceae—Poppy.
Phytolaccaceae—Pokeweed.
Piperaceae—Pepper.
Plantaginaceae—Plantain.
Polemoniaceae—Phlox.
Polygonaceae—Buckwheat or smartweed.
Portulacaceae—Purslane.
Primulaceae—Primrose.
Ranunculaceae—Buttercup.
Resedaceae—Mignonette.
Rosaceae—Rose.
Rubiaceae—Madder.
Scrophulariaceae—Figwort.
Solanaceae—Nightshade.
Umbelliferae—Parsley.
Urticaceae—Nettle.
Valerianceae—Cornsalad.
Verbenaceae—Verbena.
Zygophyllaceae—Caltrop.

(b) When occurring in an importation of other agricultural or vegetable seeds, the following agricultural and vegetable seeds are detrimental to the agricultural interests of the United States, or a part thereof, and therefore are considered weed seeds, unless they are declared in the entry papers for importation as agricultural or vegetable seeds:

Alfileria—Erodium cicutarium (L.) L'Her.
Beggarweed—Desmodium tortuosum (Sev.) D.C.
Bermudagrass, giant—Cynodon dactylon var. aridus. Harlan et de Wit.
Brome, field—Bromus arvensis L.
Burdock, great—Arctium lappa.
Burnet, little—Sanguisorba minor Scop.
Chess, soft—Bromus mollis L.
Chicory—Chicorium intybus L.
Cress, upland—Barbarea verna (Mill.) Aschers.
Crownvetch—Coronilla varia L.
Dandelion—Taraxacum officinale Weber.
Dichondra—Dichondra repens Forst.
Grass, Bermuda—Cynodon dactylon (L.) Pers.
Grass, velvet—Holcus lanatus L.
Mustard, India—Brassica juncea (L.) Goss.
Mustard, black—Brassica nigra Koch.
Rape, annual—Brassica napus var. annus Koch.
Rape, bird—Brassica campestris L.
Rape, turnip—Brassica campestris vars. L.
Sesbania—Sesbania exaltata (Raf.) Torr.
Sorghum almum—Sorghum almum Parodi.
Sorrel—Rumex acetosa L.
Sweet vernalgrass—Anthoxanthum odoratum L.

[5 FR 35, Jan. 4, 1940]

EDITORIAL NOTE: For Federal Register citations affecting § 201.107, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 201.108 Noxious weed seeds.

Seeds of the following plant shall be considered noxious weed seeds when in imported seed:

Lepidium draba L. lepidium repens (Schrenk), Hymenophysa pubescens C. A. Mey.—Whitetop.
Cirsium arvense (L.)—Canada thistle.
Cuscuta spp.—Dodder.
Agropyron repens (L.) Beauv.—Quackgrass.
Sorghum halepense (L.) Pers.—Johnson grass.
Convolvulus arvensis L.—Bindweed.
Centaurea picris Pall. — Russian knapweed.
Sonchus arvensis L.—Perennial sow-thistle.
Euphorbia esula L.—Leafy spurge.

[5 FR 36, Jan. 4, 1940]

§ 201.109 Mixtures not considered adulterations.

For the purposes of section 303 of the act the importation of mixtures in any combination of seed of suckling clover (Trifolium dubium), white clover (Trifolium repens), or cluster clover (Trifolium glomeratum) shall not be construed to be adulterated.

[6 FR 3960, Aug. 8, 1941]

JOINT RULES AND REGULATIONS OF THE SECRETARY OF THE TREASURY AND THE SECRETARY OF AGRICULTURE

DEFINITIONS

§ 201.201 Agricultural seeds.

The term "agricultural seeds" means those seeds so defined in § 201.2.

[5 FR 39, Jan. 4, 1940]

§ 201.202 Vegetable seeds.

The term "vegetable seeds" means those seeds so defined in § 201.2.

[5 FR 39, Jan. 4, 1940]

§ 201.203 Screenings.

The term "screenings" means chaff, sterile florets, immature seed, weed seed, inert matter, and any other materials removed in any way from any seeds in any kind of cleaning or processing and which contains less than 25 percent of live agricultural or vegetable seeds.

[5 FR 39, Jan. 4, 1940]

§ 201.204 Agricultural Marketing Service.

The term "Agricultural Marketing Service" means the Agricultural Marketing Service of the U.S. Department of Agriculture.

[5 FR 39, Jan. 4, 1940, as amended at 10 FR 13489, Nov. 1, 1945]

§ 201.205 Collector of customs.

The term "collector of customs" includes any person authorized under the customs laws and regulations to perform the duties of a collector of customs.

[5 FR 39, Jan. 4, 1940]

§ 201.206 Pure live seed.

The term "pure live seed" means the product of the percentage of germination plus the hard seed and the percentage of pure seed, divided by 100.

[5 FR 39, Jan. 4, 1940]

§ 201.207 Other definitions.

The definitions for the purposes of Title III of the Federal Seed Act shall include all other definitions in §§ 201.1 through 201.159.

[5 FR 39, Jan. 4, 1940]

SAMPLING

§ 201.208 Seed.

(a) Except as provided in paragraph (b) of this section the collector of customs shall draw and forward samples of all seed imported or offered for importation into the United States except the following kinds which he shall sample only when imported for seeding purposes and when declared for seeding purposes:

Barley.
Bean, adzuki.
Bean, field.
Bean, lima.
Bean, mung.
Broadbean.
Buckwheat common.
Canary grass.
Castorbean.
Celery.
Chickpea.
Corn, field.
Cowpea.
Crambe.
Flax.
Guar.
Hemp.
Lentil.
Lettuce.
Lupine.
Millet, foxtail.
Millet, proso.
Mustard, black.
Mustard, India.
Mustard, white.
Oat.
Parsley.
Pea.
Pea, field.
Peanut.
Pepper.
Pumpkin.
Rape, annual.
Rape, bird.
Rape, turnip.
Rape, winter.
Rice.
Rye.
Safflower.
Sesame.
Sorghum.
Soybean.
Sunflower.
Triticale.
Velvetbean.
Vetch.
Watermelon.
Wheat.

(b) It is not ordinarily practical to sample and test small lots in importations of seed. The size of lots not ordinarily sampled is shown in table 3 in § 201.221a. No release by the United States Department of Agriculture will be necessary for seed not sampled.

[14 FR 6459, Oct. 22, 1949, as amended at 20 FR 7856, Oct. 19, 1955; 24 FR 2269, Mar. 24, 1959; 28 FR 6871, July 4, 1963; 32 FR 12155, Aug. 24, 1967; 35 FR 7411, May 13, 1970; 35 FR 19498, Dec. 23, 1970]

§ 201.209 Screenings.

The collector of customs shall upon request received prior to importation from the Administrator of the Agricultural Marketing Service draw and forward samples of all screenings imported or offered for importation into the United States.

[5 FR 39, Jan. 4, 1940]

§ 201.210 Method of sampling.

(a) In order to secure a representative sample, equal portions shall be taken from evenly distributed parts of the quantity of seed or screenings to be sampled. Access shall be had to all parts of that quantity. When more than one trierful of seed is drawn from a bag, different paths shall be followed. When more than one handful is taken from a bag, the handfuls shall be taken from well-separated points.

(b) For free-flowing seed in bags or bulk, a probe or trier shall be used. For small free-flowing seed in bags a probe or trier long enough to sample all portions of the bag should be used.

(c) Non-free-flowing seed, such as grass seed, uncleaned seed or screenings, difficult to sample with a probe or trier, shall be sampled by thrusting the hand into the bulk and withdrawing representative portions. The hand shall be inserted in an open position and the fingers shall be held closely together while the hand is being inserted and the portion withdrawn.

(d) The portions shall be combined into a composite sample except that if the quantity represented to be a lot does not appear to be of uniform quality as required in paragraph (e) of this section the separate portions shall be forwarded together but without being combined into a composite sample.

(e) A quantity of seed designated as one lot shall be regarded as such for sampling only if every portion or bag of seed in the quantity is uniform within permitted tolerances as to percentage of pure seed, percentage of germination and hard seed, percentage of weed seed, and rate of occurrence of noxious weed seeds.

(f) When an importation consists of more than one lot, each lot shall be sampled separately.

(g) Sampling shall not proceed unless (1) each container is stencilled or otherwise labeled to show the lot designation and the name of the kind, or kind and variety, appearing on the invoice and other entry papers and (2) a "Declaration of Labeling" has been filed by the importer of record as required under § 201.228a.

[5 FR 39, Jan. 4, 1940, as amended at 10 FR 9949, Aug. 11, 1945; 14 FR 6459, Oct. 22, 1949; 26 FR 10150, Oct. 31, 1961]

§ 201.211 Bulk.

Bulk seeds or screenings shall be sampled by inserting a long probe or thrusting the hand into the bulk as circumstances require. At least as many trierfuls or handfuls as the minimum required for the same quantity of seed or screenings in bags of a size customarily used for such seed or screenings shall be taken.

[26 FR 10150, Oct. 31, 1961]

§ 201.212 Bags.

(a) For lots of six bags or less, each bag shall be sampled. A total of at least five trierfuls shall be taken.

(b) For lots of more than six bags, five bags plus at least 10 percent of the number of bags in the lot shall be sampled. (Round off numbers with decimals to the nearest whole number, raising 0.5 to the next whole number.) Regardless of the lot size, it is not necessary that more than 30 bags be sampled.

(c) When sampling seed in small containers which it is not practical to sample as required in paragraph (a) or (b) of this section, entire unopened containers may be taken in sufficient number to supply a minimum size sample as required in § 201.213. The sample may consist of the contents of one container, or two or more containers when combined.

[20 FR 7856, Oct. 19, 1955, and 26 FR 10150, Oct. 31, 1961]

§ 201.213 Size of sample.

Samples of agricultural seed shall be not less than 1 quart. Samples of screenings shall be not less than 2 quarts. Samples of vegetable seed shall be not less than 1 pint, except that samples of one-fourth pint will be sufficient from importations of 5 pounds or less. Unused portions of samples of rare or expensive seeds will be returned by the Agricultural Marketing Service upon request of the importer.

[5 FR 38, Jan. 4, 1940, as amended at 10 FR 13489, Nov. 1, 1945]

§ 201.214 Sealing and identifying samples.

Before being forwarded for analysis, test, or examination, the container of each sample shall be properly sealed, and identified in accordance with § 201.215.

[5 FR 39, Jan. 4, 1940]

§ 201.215 Statements to accompany samples.

All samples shall be accompanied by (a) a description of the lot of seed offered for importation, on a form provided for this purpose by the Department of Agriculture and (b) the declaration of labeling required in § 201.228a.

[26 FR 10150, Oct. 31, 1961]

§ 201.216 Forwarding samples.

Samples from the various ports shall be forwarded to seed laboratories in accordance with instructions of the Agricultural Marketing Service to be furnished to customs officers from time to time.

[6 FR 3961, Aug. 8, 1941, as amended at 10 FR 13489, Nov. 1, 1945]

§ 201.217 Notice to consignee.

The collector of customs shall immediately notify the owner or consignee that samples of seeds or screenings have been drawn and that the shipment shall be held intact pending a decision of the Agricultural Marketing Service in the matter.

[5 FR 39, Jan. 4, 1940, as amended at 10 FR 13489, Nov. 1, 1945]

§ 201.218 Delivery under bond.

After samples of seed or screenings offered for importation into the United States from any foreign country have been drawn, such seed or screenings shall be admitted into the commerce of the United States only after the seed or screenings have been found to meet the requirements of the act and the regulations in this part except for those lots not tested for pure live seed due to application of statistical inspection techniques as provided in section 302(a) of the Act: *Provided, however,* That if each container of such seed or screenings is stenciled or labeled to show the name of the kind, or the kind and variety, and a lot number or other designation identifying the lot of seed, collectors of customs may release from customs custody for delivery to the owner or consignee shipments which have been sampled, pending examination and decision in the matter, upon the execution on the appropriate form of either a customs single-entry bond or a customs term bond in such amount as is prescribed for such bond in customs regulations in force on date of entry, which bond shall contain a condition for the redelivery of the seed or screenings or any part thereof upon demand of the collector of customs at any time. Prior to being so admitted, the seed or screenings shall be kept intact and not tampered with in any way, or removed from the containers except under supervision as provided by regulation. The bond shall be filed with the collector of customs, who, in case of default, shall take appropriate action to effect the collection of liquidated damages equal to the value of the entire shipment as set forth in the entry plus the estimated duty thereon, if any.

[6 FR 3961, Aug. 8, 1941, as amended at 24 FR 2269, Mar. 24, 1959; 32 FR 12155, Aug. 24, 1967]

§ 201.219 Notice of removal.

The owner or consignee shall keep the Agricultural Marketing Service informed as to the location of seed or screenings subject to the act, after sampling by the collector of customs but before being finally admitted into the commerce of the United States.

[5 FR 40, Jan. 4, 1940, as amended at 10 FR 13489, Nov. 1, 1945]

EVIDENCE AS TO COUNTRY OR REGION WHERE SEED WAS GROWN

§ 201.220 Certificate or declaration of origin.

(a) A certificate, attached to the invoice, of the properly authorized official of the foreign country in which the seed was grown, to the effect that the seed of alfalfa or red clover or any mixture of seeds containing 10 percent or more of either or both of such seed was grown in that country, will be regarded as prima facie evidence of such face. This certificate shall be in the following form:

CERTIFICATE OF ORIGIN BY FOREIGN OFFICIAL

City ————————, country ————, date ————————

I, ———————————— (Name of official), hereby certify that the seed contained in ———— bags, marked ————————, described in invoice ———————— (Number or date) to which this certificate is attached, was grown in ———————————— (Name of country or countries or part thereof).

————————————————

(Name of official)

————————————————

(Official title)

(b) A declaration of the shipper attached to the invoice stating the country in which the seed of alfalfa or the seed of red clover or any mixture of seeds containing 10 percent or more of either or both of such seeds was grown will be regarded as prima facie evidence of such fact. The declaration shall be in the following form:

DECLARATION OF ORIGIN BY SHIPPER

City ————————, country ————, date ————————.

I, the undersigned, the shipper of the seed contained in ———————— bags, marked ————————, described in invoice ———————— (Number or date), to which this declaration is attached, do hereby certify that such seed was grown in

————————————————————————

(Name of country or countries or part thereof).

————————————————

(Signature)

(c) If the information contained in the certificate or declaration provided for in paragraphs (a) and (b) of this section is not sufficient to establish the country or region of origin of the seed, or if the consular invoice is not accompanied by such certificate or declaration, other evidence as to the origin may be considered, or the seed may be permitted entry after being stained 10 percent red.

[5 FR 40, Jan. 4, 1940, as amended at 14 FR 335, Jan. 26, 1949]

EXEMPTIONS, DECLARATIONS AND LABELING

§ 201.221 Exemptions.

(a) *Shipments through the United States.* Seed shipped in bond through the United States is not subject to the import requirements of the act.

(b) *United States seed returned.* Seed which has been grown in the United States, exported, and returned from a foreign country, is not subject to the prohibition against the importation of seed that is adulterated or unfit for seeding purposes: *Provided,* That proof in the form of statements or other documents, furnished by the United States importer to the Seed Branch, Agricultural Marketing Service, United States Department of Agriculture, establishes that (1) the seed was grown in the United States and was exported, (2) the seed was not admitted into the commerce of a foreign country, and (3) the seed was not commingled with other seed after being exported. The information required in paragraph (b)(1) of this section shall include the quantity of seed and number of containers, the date of exportation from the United States, the distinguishing marks on the containers at the time of exportation, and the name and address of the United States exporter. The information required in paragraphs (b)(2) and (3) of this section shall be contained in a statement or document issued by a customs or other Government official of the foreign country.

(c) *Seed for experimental or breeding purposes.* Any lot of seed imported for sowing for experimental or breeding purposes and not for sale is not subject to the prohibition against the importation of seed that is adulterated or unfit for seeding purposes: *Provided,* That (1) a declaration is filed by the importer with the Seed Branch, Consumer and Marketing Service, United States Department of Agriculture, as specified in this paragraph, and (2) the quantity of seed in the lot will not exceed that shown in table 4 in § 201.221a for such seed. Seed imported for increase purposes only will not be considered to be imported for experimental or breeding purposes. The declaration required to be filed shall be substantially as shown in paragraph (d) of this section.

(d) *Seed for seed production only.* Any lot of seed imported for sowing for seed production only, by or for the importer or consignee, and not to be sold within the United States is not subject to the prohibition against the importation of seed that is (1) adulterated or unfit for seeding purposes because of low pure live seed, or (2) required to be stained: *Provided,* That a declaration is filed by the importer with the Seed Branch, Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, substantially as specified below:

DECLARATION

SEED FOR EXPERIMENTAL OR BREEDING PURPOSES OR SEED FOR SEED PRODUCTION ONLY

The undersigned declares: That he is a resident of ———— (Street, city, and State); that he is (owner of) (employed by) the firm of —— (as a ———); that he (is) (represents) the (owner) (consignee) of the —— pounds of ———— (Kind of seed) seed ordered for importation at ———— (Port of entry) under entry No. —— and contained in ——— bags or containers marked ——— as described in invoice No. —— dated ———; that said seed is being imported for (making selections, crosses, or tests, or for other experimental or breeding purposes) or (seed production only) and will not be sold.

Signed ————————

Date: ————————

[24 FR 2269, Mar. 24, 1959, as amended at 32 FR 12155, Aug. 24, 1967]

§ 201.221a Table 5.

	Weight of seed lot not ordinarily sampled, less than—(Pounds)	Weight of seed lot permitted entry for experimental or breeding purposes, not more than—(Pounds)
VEGETABLE SEEDS		
Artichoke	25	50
Asparagus	25	50
Asparagusbean	25	50
Bean	25	200
Bean, garden	100	500
Bean, lima	25	200
Bean, runner	25	200
Beet	25	50
Broadbean	25	200
Broccoli	5	10
Brussels sprouts	5	10
Burdock, great	10	50
Cabbage	5	10
Cabbage, tronchuda	5	10
Cantaloupe (see Muskmelon).		
Cardoon	25	50
Carrot	5	10
Cauliflower	5	10
Celeriac	5	10
Celery	5	10
Chard, Swiss	25	50
Chicory	5	10
Chinese cabbage	5	10
Chives	5	10
Citron	25	50
Collards	5	10
Corn, sweet	25	200
Cornsalad	5	10
Cowpea	25	200
Cress, garden	5	10
Cress, upland	5	10
Cress, water	5	10
Cucumber	25	50
Dandelion	5	10
Eggplant	5	10
Endive	5	10
Kale	5	10
Kale, Chinese	5	10
Kale, Siberian	5	10
Kohlrabi	5	10
Leek	5	10
Lettuce	5	10
Muskmelon	25	50
Mustard, India	25	100
Mustard, spinach	5	10
Okra	25	50
Onion	5	10
Onion, Welsh	5	10
Pak-choi	5	10
Parsley	5	10
Parsnip	5	10
Pea	25	200
Pepper	5	10
Pumpkin	25	50
Radish	25	50
Rhubarb	5	10
Rutabaga	5	10
Salsify	25	50
Sorrel	5	10
Soybean	25	200
Spinach	25	50
Spinach, New Zealand	25	50
Squash	25	50
Tomato	5	10
Tomato, husk	5	10
Turnip	5	10
Watermelon	25	50
AGRICULTURAL SEEDS		
Alfalfa	25	100
Alfileria	25	100
Alyceclover	25	100
Bahiagrass	25	100

	Weight of seed lot not ordinarily sampled, less than—(Pounds)	Weight of seed lot permitted entry for experimental or breeding purposes, not more than—(Pounds)
Barrelclover	25	100
Barley	100	500
Bean, adzuki	100	500
Bean, field	100	500
Bean, mung	100	500
Bean (see Velvetbean)		
Beet, field	100	500
Beet, sugar	100	1,000
Beggarweed	25	100
Bentgrass, colonial	25	100
Bentgrass, creeping	25	100
Bentgrass, velvet	25	100
Bermudagrass	25	100
Bermudagrass, giant	25	100
Bluegrass, bulbous	25	100
Bluegrass, Canada	25	100
Bluegrass, glaucantha	25	100
Bluegrass, Kentucky	25	100
Bluegrass, Nevada	25	100
Bluegrass, rough	25	100
Bluegrass, Texas	25	100
Bluegrass, wood	25	100
Bluestem, big	25	100
Bluestem, little	25	100
Bluestem, sand	25	100
Bluestem, yellow	25	100
Brome, field	25	100
Brome, mountain	25	100
Brome, smooth	25	100
Broomcorn	100	500
Buckwheat	100	500
Buffalograss	25	100
Bur-clover, California	25	100
Bur-clover, spotted	25	100
Burnet, little	25	100
Buttonclover	25	100
Canarygrass	25	100
Canarygrass, reed	25	100
Carpetgrass	25	100
Castorbean	100	500
Chess, soft	25	100
Chickpea	100	500
Clover, alsike	25	100
Clover, berseem	25	100
Clover, cluster	25	100
Clover, crimson	25	100
Clover, Kenya	25	100
Clover, large hop	25	100
Clover, small hop (suckling)	25	100
Clover, ladino	25	100
Clover, lappa	25	100
Clover, Persian	25	100
Clover, red or	25	100
Red clover, mammoth	25	100
Red clover, medium	25	100
Clover, rose	25	100
Clover, strawberry	25	100
Clover, sub (subterranean)	25	100
Clover, white (also see clover, ladino)	25	100
Clover, (also see Alyce-clover, Bur-clover, Buttonclover, Sourclover, Sweetclover).		
Corn, field	100	1,000
Corn, pop	100	1,000
Cotton	100	500
Cowpea	100	500
Crambe	25	100
Crested dogtail	25	100
Crotalaria, lance	25	100
Crotalaria, showy	25	100
Crotalaria, slenderleaf	25	100
Crotalaria, striped	25	100
Crotalaria, Sunn	25	100
Crownvetch	25	100
Dallisgrass	25	100
Dichondra	25	100
Dropseed, sand	25	100
Emmer	100	500
Fescue, Chewings	25	100
Fescue, hair	25	100
Fescue, hard	25	100
Fescue, meadow	25	100
Fescue, red	25	100
Fescue, sheep	25	100
Fescue, tall	25	100
Flax	25	100
Grama, blue	25	100
Grama, side-oats	25	100
Guar	25	100
Guineagrass	25	100
Hardinggrass	25	100
Hemp	100	500
Indiangrass, yellow	25	100
Indigo, hairy	25	100
Japanese lawngrass	25	100
Johnsongrass	25	100
Kudzu	25	100
Lentil	25	100
Lespedeza, Korean	25	100
Lespedeza, sericea or Chinese	25	100
Lespedeza, Siberian	25	100
Lespedeza, striate	25	100
Lovegrass, sand	25	100
Lovegrass, weeping	25	100
Lupine, blue	100	500
Lupine, white	100	500
Lupine, yellow	100	500
Manilagrass	25	100
Meadow foxtail	25	100
Medick, black	25	100
Millet, browntop	25	100
Millet, foxtail	25	100
Millet, Japanese	25	100
Millet, pearl	25	100
Millet, proso	25	100
Molassesgrass	25	100
Mustard, black	25	100
Mustard, India	25	100
Mustard, white	25	100

	Weight of seed lot not ordinarily sampled, less than—(Pounds)	Weight of seed lot permitted entry for experimental or breeding purposes, not more than—(Pounds)
Napiergrass	25	100
Oat	100	500
Oatgrass, tall	25	100
Orchardgrass	25	100
Panicgrass, blue	25	100
Panicgrass, green	25	100
Peanut	100	500
Pea, field	100	500
Poa trivialis (see bluegrass, rough).		
Rape, annual	25	100
Rape, bird	25	100
Rape, turnip	25	100
Rape, winter	25	100
Redtop	25	100
Rescuegrass	25	100
Rhodesgrass	25	100
Rice	100	500
Ricegrass, Indian	25	100
Roughpea	100	500
Rye	100	500
Ryegrass, Italian	25	100
Ryegrass, perennial	25	100
Ryegrass, Wimmers	25	100
Safflower	100	500
Sainfoin	100	500
Sessame	25	100
Sesbania	25	100
Smilo	25	100
Sorghum	100	1,000
Sorghum alum	25	100
Sorghum sudangrass hybrid	100	1,000
Sorgrass	25	100
Sourclover	25	100
Soybean	100	500
Spelt	100	500
Sudangrass	25	100
Sunflower	100	500
Sweetclover, white	25	100
Sweetclover, yellow	25	100
Sweet vernalgrass	25	100
Switchgrass	25	100
Timothy	25	100
Tobacco	1	1
Trefoil, big	25	100
Trefoil, birdsfoot	25	100
Triticale	100	500
Vaseygrass	25	100
Veldtgrass	25	100
Velvetbean	100	500
Velvetgrass	25	100
Vetch, common	100	500
Vetch, hairy	100	500
Vetch, Hungarian	100	500
Vetch, Monantha	100	500
Vetch, narrowleaf	100	500
Vetch, purple	100	500
Vetch, woolypod	100	500
Wheat, common	100	500
Wheat, club	100	500
Wheat, durum	100	500
Wheat, Polish	100	500
Wheat, poulard	100	500
Wheatgrass, beardless	25	100
Wheatgrass, fairway crested	25	100
Wheatgrass, standard crested	25	100
Wheatgrass, intermediate	25	100
Wheatgrass, pubescent	25	100
Wheatgrass, slender	25	100
Wheatgrass, streambank	25	100
Wheatgrass, tall	25	100
Wheatgrass, Siberian	25	100
Wheatgrass, western	25	100
Wild-rye, Canada	25	100
Wild-rye, Russian	25	100
Zoysia Japonica (see Japanese lawngrass).		
Zoysia matrella (see Manilagrass).		

[24 FR 2269, Mar. 24, 1959, as amended at 26 FR 10150, Oct. 31, 1961; 28 FR 6871, July 4, 1963; 32 FR 12155, Aug. 24, 1967; 35 FR 7411, May 13, 1970]

§ 201.222 Declaration of purpose and labeling as to kind, variety, hybrid, and treatment.

(a) Entries covering all importations of seed of:

Barley
Bean, Adzuki
Bean, field
Bean, lima
Bean, mung
Buckwheat, common
Canary grass
Castorbean
Celery
Chickpea
Corn, field
Cowpea
Crambe
Flax
Guar
Hemp
Horse or broad mean
Lentil
Lettuce
Lupine
Millet, foxtail, German, Hungarian, and golden
Millet, proso
Mustard, black

Mustard, India
Mustard, white
Oat
Parsley
Pea
Pea, field
Peanut
Pepper
Pumpkin
Rape, annual
Rape, bird
Rape, turnip
Rape, winter
Rice
Rye
Safflower
Sesame
Sorghum
Soybean
Sunflower
Triticale
Velvetbean
Vetch
Watermelon
Wheat

shall contain a statement by the importer setting forth the use for which imported. When imported for seeding purposes such seed is subject to the import provisions of the act.

(b) [Reserved]

(c) If any seed enumerated in this section is declared for seeding purposes and is found upon examination by the Agricultural Marketing Service not to meet the requirements of the Federal Seed Act, the importer shall be permitted to withdraw his declaration made under this section upon notification from the Agricultural Marketing Service that the seed may be released for feeding or manufacturing purposes. In this event, the importer shall be required to file a new declaration that no part of the importation will be used for seeding purposes.

(d) The collector of customs shall notify the Department of Agriculture of any change in the nature of a declaration made under this section.

(e) The invoice and any other labeling pertaining to agricultural or vegetable seed offered for importation shall bear the lot identification, the name of each kind and variety of vegetable seed present, or kind or kind and variety of agricultural seed present, in excess of 5 percent of the whole, and the designation "hybrid" when it is hybrid seed as defined under § 201.2(y).

(f) Any agricultural seed or mixture thereof or any vegetable seed or mixture thereof offered for importation for seeding purposes that has been treated shall be labeled as provided in § 201.31(a) of the regulations of the Secretary of Agriculture.

[5 FR 40, Jan. 4, 1940]

EDITORIAL NOTE: For Federal Register citations affecting § 201.222, see the List of CFR Sections Affected in the Finding Aids section of this volume.

SCREENINGS

§ 201.223 Screenings prohibited entry.

Screening of all seed subject to the Federal Seed Act are prohibited entry into the United States except as provided under § 201.224.

[5 FR 40, Jan. 4, 1940]

§ 201.224 Screenings permitted entry.

Screenings consisting of wheat, oats, rye, barley, buckwheat, field corn, sorghum including broomcorn, flax, millet, Proso, soybeans, cowpeas, field peas, and field beans may be imported, provided such screenings are not imported for seeding purposes and are so declared by the words "screening for processing, not for seeding" in the invoice or other papers required to be presented to the collector of customs.

[5 FR Jan. 4, 1940, as amended at 24 FR 2270, Mar. 24, 1959]

SEED ADULTERATED OR UNFIT FOR SEEDING PURPOSES

§ 201.225 Cleaning or processing.

Seed which is found under the provisions of the act to be adulterated or unfit for seeding purposes may be cleaned or processed under the supervision of an employee or authorized agent of the U.S. Department of Agriculture. The cleaning or processing shall be at the expense of the owner or consignee who shall reimburse the Government for all expenses incurred in connection with such supervision, including travel, per diem or subsistence, and salaries of officers or employees of the United States. Travel and per diem or subsistence expenses shall be reimbursed at the rate allowed for employees of the United

States in accordance with Standardized Government Travel Regulations. Salary shall be reimbursed at the average rate paid to employees engaged in supervision activities plus average related costs. The identity of the seed shall be maintained at all times to the satisfaction of the persons supervising the cleaning or processing. The refuse from such cleaning shall be placed in containers and securely sealed and identified. If upon analysis, test, or examination of a representative sample of the cleaned seed, it is found that the requirements of the act have been met, that portion of the seed may be admitted.

[5 FR 40, Jan. 4, 1940, as amended at 24 FR 2270, Mar. 24, 1959; 26 FR 10150, Oct. 31, 1961]

§ 201.226 Destruction of refuse.

The refuse from such cleaning shall be destroyed under the supervision of an employee or authorized agent of the U.S. Department of Agriculture. The destruction of refuse shall be at the expense of the owner or consignee who shall reimburse the Government for all expenses incurred in connection with such supervision, including travel, per diem or subsistence, and salaries of officers or employees of the United States. Travel and per diem or subsistence expenses shall be reimbursed at the rate allowed for employees of the United States in accordance with Standardized Government Travel Regulations. Salary shall be reimbursed at the average rate paid to employees engaged in supervision activities plus average related costs.

[5 FR 40, Jan. 4, 1940, as amended at 24 FR 2270, Mar. 24, 1959; 26 FR 10150, Oct. 31, 1961]

§ 201.227 Report to collector of customs.

A report of the cleaning and processing and the destruction of the refuse, stating the amount by weight in each instance, shall be submitted to the collector of customs at the port of entry of such seed by the Agricultural Marketing Service.

[5 FR 40, Jan. 4, 1940]

MISBRANDED SEED

§ 201.228 Correction of labeling.

Seed being imported or offered for importation, the labeling of which is false or misleading in any respect, shall be refused admission into the commerce of the United States until such labeling has been corrected to meet the requirements of the act and the rules and regulations in this part. Any correction of the labeling upon the containers shall be done under the supervision of the U.S. Department of Agriculture at the expense of the owner or consignee, who shall reimburse the Government for all expenses incurred in connection with such supervision, including travel, per diem or subsistence, and salaries of officers or employees of the United States. Travel and per diem or subsistence expenses shall be reimbursed at the rate allowed for employees of the United States in accordance with Standardized Government Travel Regulations. Salary shall be reimbursed at the average rate paid to employees engaged in supervision activities plus average related costs. When a representative of the Department of Agriculture finds upon examination of seed that it is incorrectly described on the invoice presented at the time of entry, a finding of "false labeling" under the Federal Seed Act of August 9, 1939, will be made. The seed will be refused admission until after the importer has given satisfactory assurance to the Department of Agriculture that he has taken appropriate steps to file with the collector of customs at the port of entry a corrected customs invoice describing the seed in terms which will not constitute "false labeling." Upon receipt of such assurance, the Department of Agriculture will notify the collector of the nature of the "false labeling" and that the seed may be granted admission under the Federal Seed Act. The importer will be liable for the payment of liquidated damages under the bond filed in connection with the entry unless a corrected customs invoice is produced within the time provided for by law or regulations.

[5 FR 40, Jan. 4, 1940, as amended at 10 FR 9949, Aug. 11, 1945; 24 FR 2270, Mar. 24, 1959; 26 FR 10150, Oct. 31, 1961]

§ 201.228a Declaration of labeling.

For each importation of seed the importer shall submit with the entry papers a copy of the commercial invoice showing thereon or on a statement attached thereto, for each lot, under the heading "Declaration of Labeling," any information on or attached to the containers of the seed regarding the kind or kind and variety; distinguishing marks; origin; percentages of pure seed, weed seed, inert matter, other crop seed, pure live seed, germination, and hard seeds; the date of test; the name and rate of occurrence of noxious-weed seeds; and the name of any substance or process used in treating the seed: *Provided*, That a declaration of labeling shall not be required for any kind of seed enumerated in § 201.222 that is imported for other than seeding purposes.

[28 FR 6871, July 4, 1963]

MIXING SEED

§ 201.229 Prohibition against and exception.

Mixing any seed or screenings with a lot or shipment of seed or screenings offered for entry which has been found to be in violation of the act or the regulations in this part is prohibited, except that in cases where it shall appear to the satisfaction of the Administrator of the Agricultural Marketing Service that two or more such lots or shipments of seed or screenings offered for entry are of substantially the same quality and origin, they may be mixed for the purpose of recleaning upon a written permit from the Administrator of the Agricultural Marketing Service.

[5 FR 40, Jan. 4, 1940]

REJECTED SEED OR SCREENINGS

§ 201.230 Exportation or destruction.

(a) Seed or screenings refused admission into the commerce of the United States shall be exported under customs supervision by the owner or consignee within 12 months of the date of notice of such refusal or at the expiration of such 12-month period the rejected seed or screenings shall be destroyed under the supervision of an employee or authorized agent of the United States Department of Agriculture in such manner as may be determined by the United States Department of Agriculture.

(b) When seed or screenings which have been refused admission into the commerce of the United States are exported the collector of customs shall notify the office of the United States Department of Agriculture that issued the notice of rejection and shall also submit to said office a sample drawn from the seed at the time of exportation.

(c) The destruction of seed or screenings refused admission shall be at the expense of the owner or consignee who shall reimburse the Government for all expenses incurred in connection with such supervision, including travel, per diem or subsistence, and salaries of officers and employees of the United States. Travel and per diem or subsistence expenses shall be reimbursed at the rate allowed for employees of the United States in accordance with Standardized Government Travel Regulations. Salary shall be reimbursed at the average rate paid to employees engaged in supervision activities plus average related costs. The United States Department of Agriculture shall make a report of such destruction giving the amount by weight to the collector of customs at the port of entry of such seed or screenings.

[10 FR 9949, Aug. 11, 1945, as amended at 20 FR 7856, Oct. 19, 1955; 24 FR 2270, Mar. 24, 1959; 26 FR 10150, Oct. 31, 1961]

PART 202—FEDERAL SEED ACT RULES OF PRACTICE

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202.44 Proceedings under section 305(b) to determine whether foreign alfalfa or red clover seed is not adapted for general agricultural use in the United States.

AUTHORITY: Secs. 302, 305, 402, 408, 409, 413, 414, 53 Stat. 1275, as amended; 7 U.S.C. 1582, 1585, 1592, 1598, 1599, 1603, 1604.

SOURCE: 36 FR 1314, Jan. 27, 1971, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to Part 202 appear at 37 FR 8059, Apr. 25, 1972.

Subpart A—General

§ 202.1 Meaning of words.

As used in this part, words in the singular form shall be deemed to import the plural, and vice versa, as the case may require.

§ 202.2 Definitions.

For the purposes of this part, the following terms shall be construed, respectively, to mean:

(a) The term "Act" means the Federal Seed Act, approved August 9, 1939 (53 Stat. 1275, 7 U.S.C. 1551 et seq.) and any legislation amendatory thereof.

(b) "Complaint" means any formal complaint and notice of hearing or other document by virtue of which a proceeding under the Act is instituted.

(c) "Complainant" means the party upon whose complaint the proceeding is instituted.

(d) "Decision and Order" includes the Secretary's findings, conclusions, order, and rulings on motions, exceptions, statements of objections, and proposed findings, conclusions and orders submitted by the parties not theretofore ruled upon.

(e) "Director" means the Director of the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, or any officer or employee of the Department to whom authority is delegated to act in his stead.

(f) "Administrative Law Judge" means an Administrative Law Judge in the Office of Administrative Law Judge, U.S. Department of Agriculture.

(g) "Administrative Law Judge Recommended Decision" means the Administrative Law Judge's report to the Secretary consisting of the proposed: (1) Findings of facts and conclusions with respect to all material issues of fact, law or discretion, as well as the reasons or basis for conclusions and (2) order.

(h) The term "hearing" means that part of a proceeding which involves the submission of evidence and means either an oral or written hearing.

(i) "Hearing Clerk" means the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250.

(j) The term "person" includes any individual, partnership, corporation, company, society, association, receiver, or trustee.

(k) The term "regulations" means the regulations promulgated pursuant to the Act (7 CFR Part 201).

(l) "Respondent" means the party proceeded against.

(m) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of *the U.S. Department of Agriculture to* whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead, including the Judicial Officer.

§ 202.3 Institution of proceedings.

Any person having information of any violation of the Act or of any of the regulations promulgated thereunder may file with the Director an application requesting the institution of such proceedings as may be authorized under the Act. Such application shall be in writing, signed by or on behalf of the applicant, and shall contain a short and simple statement of the facts constituting the alleged violation and the name and address of the applicant and the party complained of. If, after investigation of the matters complained of in the application or after investigation made on his own motion, the Director has reason to believe that any person has violated or is violating any of the provisions of the Act or the regulations made and promulgated thereunder, he may institute such proceedings as may be authorized by the Act.

§ 202.4 Status of applicant.

The person filing an application shall not be a party to any proceeding which may be instituted under the Act, unless he be permitted by the Secretary or by the Administrative Law Judge to intervene therein. The Director shall not be required to divulge the name of the applicant and such person will have no legal status in the proceeding which may be instituted, except where allowed to intervene or as such person may be called as a witness. At any time after the institution of the proceeding, and before it has been submitted to the Secretary for final consideration, the Secretary or the Administrator, may upon petition in writing and upon good cause shown, permit any person to intervene.

Subpart B—Rules Applicable to Cease and Desist Proceedings

§ 202.10 Institution of proceedings; docket number.

(a) A cease and desist proceeding under section 409 of the Act (7 U.S.C. 1599) is instituted upon the issuance by the Director of a complaint and the filing of such document with the Hearing Clerk.

(b) Each such proceeding, immediately following its institution, shall be assigned a docket number by the Hearing Clerk and thereafter the proceeding shall be referred to by such number.

§ 202.11 Complaint.

(a) *Filing and service.* If the Director has reason to believe that any person has violated or is violating any of the provisions of the Act or the regulations issued or promulgated thereunder, a complaint may be filed with the Hearing Clerk, a copy of which shall be served upon each respondent as provided in § 202.27.

(b) *Contents.* The complaint shall set forth briefly the nature of the violation or violations, including allegations of fact which constitute a basis for the proceeding, and designate a time and place for a hearing in the matter which shall be at least 30 days after the date of the service of the complaint upon the respondent.

(c) *Amendments.* At any time prior to the close of the hearing, the complaint may be amended; but, in case of an amendment adding new provisions, the hearing shall, on the request of the respondent, be adjourned for a period not exceeding 15 days.

§ 202.12 Answer.

(a) *Filing and service.* The respondent shall file, within 20 days after service of the complaint upon the respondent, an answer to the allegations of the complaint, with the Hearing Clerk, signed by the respondent or his attorney.

(b) *Contents.* The answer shall:

(1) Contain a concise statement of the facts which constitute the grounds of defense, and shall specifically admit, deny, or explain each of the al-

legations of the complaint, unless the respondent is without knowledge, in which case the answer shall so state;

(2) State that the respondent admits all of the facts alleged in the complaint; or

(3) State that the respondent admits the jurisdictional allegations of the complaint and neither admits nor denies the remaining allegations and consents to the issuance of a specified order without further procedure. The answer may, in addition, request an oral hearing or may contain an express waiver of hearing.

(c) *Failure to file.* Failure to file an answer to, or plead specifically to, any allegation of the complaint, except as provided in § 202.12(b)(3), shall constitute an admission of such allegation.

§ 202.13 Consent orders.

At any time after the institution of a proceeding, the respondent may file an answer or amended answer consenting to an order as set forth in § 202.12(b)(3). Within 15 days after service of such an answer, the complainant shall file its recommendation. If the complainant recommends that the order consented to by respondent be issued, the Secretary may, in his discretion, enter such order which shall have the same force and effect as other orders issued hereunder and shall be served upon the parties in the manner provided in § 202.27.

§ 202.14 Examiners.

(a) *Assignment.* No examiner shall serve in any proceeding if he: (1) Has any pecuniary interest in any matter or business involved in the proceeding; (2) is related within the third degree by blood or marriage to any party to the proceeding; or (3) has participated in the investigation preceding the institution of the proceeding or in the determination that it should be instituted or in the preparation of the complaint or in the development of the evidence to be introduced therein.

(b) *Disqualification of Administrative Law Judge.* (1) Any party may, by motion made to the Administrative Law Judge, request that the Administrative Law Judge disqualify himself and withdraw from the proceeding. The Administrative Law Judge may then either rule upon or certify the motion to the Secretary, but not both.

(2) An Administrative Law Judge shall withdraw from any proceeding in which he deems himself disqualified for any reason.

(c) *Conduct.* The Administrative Law Judge shall conduct the proceeding in a fair and impartial manner, and save to the extent required for the disposition of ex parte matters as authorized by law, he shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate.

(d) *Powers.* Subject to review by the Secretary as provided elsewhere in this part, the Administrative Law Judge, in any proceeding assigned to him, shall have power to:

(1) Rule upon motions and requests;

(2) Set the time and place of hearing, adjourn the hearing from time to time, and change the time and place of hearing;

(3) Administer oaths and affirmations and take affidavits;

(4) Issue subpoena requiring the attendance and testimony of witnesses and the production of books, contracts, papers, and other documentary evidence;

(5) Summon and examine witnesses and receive evidence;

(6) Take or order the taking of depositions;

(7) Admit or exclude evidence;

(8) Hear oral argument on facts or law; and

(9) Do all acts and take all measures necessary for the maintenance of order at the hearing and for the efficient, fair and impartial conduct of the proceeding.

(e) *Who may act in the absence of the Administrative Law Judge.* In case of the absence of the Administrative Law Judge or his inability to act: (1) The powers and duties to be performed by him under this part in connection with a proceeding assigned to him may, without abatement of the proceeding unless otherwise directed by the Secretary, be assigned to any other Administrative Law Judge; and (2) the Chief Administrative Law Judge or the Acting Chief Administrative Law Judge may act on ancillary matters, such as requests for extensions of time and requests for continuances without the case being assigned to another Administrative Law Judge.

§ 202.15 Prehearing conferences.

In any proceeding in which it appears that such procedure will expedite the proceeding, the Administrative Law Judge may request the parties or their counsel to appear at a conference before him to consider: (a) The simplication of issues; (b) the necessity or desirability of amendments to pleadings; (c) the possibility of obtaining stipulations of fact and of documents which will avoid unnecessary proof; (d) the limitation of the number of experts or other witnesses; and (e) such other matters as may expedite and aid in the disposition of the proceeding. No transcript of such conference shall be made, but the Administrative Law Judge shall prepare and file for the record a written summary of the action taken at the conference, which shall incorporate any written stipulations or agreements made by the parties at the conference or as a result of the conference. If the circumstances are such that a conference is impracticable, the Administrative Law Judge may request the parties to correspond with him for the purpose of accomplishing any of the objects set forth in this section. The Administrative Law Judge shall forward copies of letters and documents to the parties as the circumstances require. Correspondence in such negotiations shall not be a part of the record, but the Administrative Law Judge shall submit a written summary for the record if any action is taken.

§ 202.16 Motions and requests.

(a) *General.* All motions and requests shall be filed with the Hearing Clerk, unless made during the course of an oral hearing, in which case they may be stated orally and made a part of the transcript. The Administrative Law Judge is authorized to rule upon all motions and requests filed or made prior to the filing of his report with the Hearing Clerk as hereinafter provided. The Secretary will rule upon all motions and requests filed after that time.

(b) *Motions entertained.* Any motion will be entertained except a motion to dismiss a complaint on the pleadings. All motions and requests concerning the sufficiency of the complaint must be made within the time allowed for filing an answer.

(c) *Contents.* All written motions and requests shall state the particular order, ruling, or action desired and the grounds therefor.

(d) *Answers to motions and requests.* Within 15 days after service of any written motion or request, or within any longer period fixed by the Secretary or Administrative Law Judge, the opposing party shall file an answer to the motion or request or shall be deemed to have no objection to the granting of the relief asked for in the motion or request. Unless permitted by the Secretary or Administrative Law Judge, the complainant shall have no right to reply to the answer.

(e) *Certification to Secretary.* The submission or certification of any motion, request, objection or other question to the Secretary prior to the time when the Administrative Law Judge's Recommended Decision is filed with the Hearing Clerk shall be in the discretion of the Administrative Law Judge, except as provided in this section. The Administrative Law Judge may either rule upon or certify the motion, request, objection, or other question, but not both.

§ 202.17 Procedure upon failure to request oral hearing or waiver of oral hearing.

(a) *General.* Failure to request an oral hearing within the time allowed for the filing of the answer shall constitute a waiver of such hearing. Except as provided in § 202.18, upon such failure to request an oral hearing, or upon express waiver of such hearing, by the parties, the parties shall have a period of 20 days from the final date for filing the answer in which to file sworn statements or affidavits in support of their respective positions. Within a reasonable time thereafter, the Examiner shall issue his Recommended Decision, which shall be served upon the parties in the manner provided in § 202.27: *Provided, however,* That if such sworn statements or affidavits raise any material issue of fact, the Administrative Law Judge may afford the parties an opportunity to submit sworn statements or affidavits in reply or supplemental thereto or he may set the matter down for an oral hearing with respect to such material issues of fact. In the event the matter is set down for oral hearing, the rules in § 202.19 shall be applicable.

(b) *Exceptions to Administrative Law Judge's Recommended Decisions.* Within 30 days after service of the Administrative Law Judge's Recommended Decision, the parties may take exception to any matter set out in such report, and in such case shall file exceptions in writing with the Hearing Clerk suggesting corrected findings of fact, conclusions, or order. A party may file a brief in support of any exceptions or objections which he may file. A party, if he files exceptions, shall state in writing whether he desires to make an oral argument thereon before the Secretary in the manner provided in § 202.23; otherwise he shall be deemed to have waived such oral argument.

(c) *Final order.* As soon as practicable after the expiration of the period for filing exceptions and briefs, or, in case oral argument is had, and as soon as practicable thereafter, the Secretary shall issue his final decision and order, including his ruling on any exceptions filed by the parties. The order shall be served upon the parties in the manner provided in § 202.27.

[36 FR 1316, Jan. 27, 1971, as amended at 36 FR 2959, Feb. 13, 1971]

§ 202.18 Procedure upon admission of facts.

(a) *General.* Failure to file an answer shall constitute an admission of all the material allegations of fact contained in the complaint. The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint, shall constitute a waiver of oral hearing. Upon such admission of facts, the Administrative Law Judge, without further procedure or hearing, shall issue his Recommended Decision, in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint. The Administrative Law Judge's Recommended Decision shall be served upon the parties in the manner provided in § 202.27.

(b) *Exceptions to Administrative Law Judge's report.* Within 10 days after service of the Administrative Law Judge's Recommended Decision parties may take exception to any matter set out in such Recommended Decision, and in such case shall file exceptions in writing with the Hearing Clerk suggesting corrected findings of fact, conclusions, or order. A party may file a brief in support of any exceptions or objections which he may file. A party, if he files exceptions, shall state in writing whether he desires to make an oral argument thereon before the Secretary in the manner provided in § 202.23; otherwise he shall be deemed to have waived such oral argument.

(c) *Final order.* As soon as practicable after the expiration of the period for filing exceptions and briefs, or, in case oral argument is had, as soon as practicable thereafter, the Secretary shall issue his final decision and order, including his ruling on any exceptions filed by the parties. The decision and order shall be served upon the parties in the manner provided in § 202.27.

§ 202.19 Procedure upon request for an oral hearing.

(a) *Time and place of hearing.* If and when the proceeding has reached the stage where an oral hearing is to be held, the Administrative Law Judge, giving careful consideration to the convenience of the parties, shall set a time and place of hearing and shall file with the Hearing Clerk a notice stating the time and place of hearing. If any change in the time or place of the hearing is made, the Administrative Law Judge shall file with the Hearing Clerk a notice of such change, which notice shall be served upon the parties, unless it is made during the course of an oral hearing and made a part of the transcript.

(b) *Appearances*—(1) *Representation.* The parties may appear in person or by counsel or other representative. Parties who appear in person and persons who appear as counsel or in a representative capacity must conform to the standards of ethical conduct required of practitioners before the courts of the United States. Whenever the Secretary finds, after notice and opportunity for hearing, that a person, who is acting or has acted as counsel or representative for another person in any proceeding before the Secretary, is unfit to act as such representative or counsel, he will order that such person be precluded from acting as counsel or representative in any proceeding under the Act. The procedure in such case will be governed by the applicable provisions of this part.

(2) *Failure to appear.* If any party to the proceeding, after being duly notified, fails to appear at the hearing, he shall be deemed to have waived the right to an oral hearing in the proceeding. In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an election whether to present his evidence, in whole or in part, in the form of affidavits or by oral testimony before the Administrative Law Judge. Failure to appear at a hearing shall not be deemed to be a waiver of the right to be served with a copy of the Administrative Law Judge's Recommended Decision and to file exceptions and make oral argument before the Secretary with respect thereto, in the manner provided in §§ 202.19(h) and 202.23.

(c) *Order of proceeding.* Except as may be determined otherwise by the Administrative Law Judge, the complainant shall proceed first at the hearing.

(d) *Evidence*—(1) *General.* The testimony of witnesses at the hearing shall be upon oath or affirmation and subject to cross-examination. Any witness may, in the discretion of the Administrative Law Judge, be examined separately and apart from all other witnesses except those who may be parties to the proceeding. The Administrative Law Judge shall admit all relevant and material evidence, except evidence which is unduly repetitious.

(2) *Objections.* If a party objects to the admission or rejection of any evidence or the limitation of the scope of any examination or cross-examination, he shall state briefly the grounds for such objection, whereupon an automatic exception will follow if the objection is overruled by the Administrative Law Judge. Only objections made before the Administrative Law Judge may be subsequently relied upon in the proceeding.

(3) *Depositions.* The deposition of any witness shall be admitted in the manner provided in and subject to the provisions of § 202.20.

(4) *Records of the Department.* A true copy of every written entry in the records of the Department made by an officer or employee thereof in the course of his official duty and relevant and material to the issues involved in the hearing, shall be admissible as prima facie evidence of the facts stated therein, without the production of such officer or employee.

(5) *Exhibits.* Except where the Administrative Law Judge finds that the furnishing of copies is impracticable, copies of each exhibit, in addition to the original, shall be filed with the Administrative Law Judge for the use of the other parties to the proceeding. A true copy of an exhibit may, in the discretion of the Administrative Law Judge, be substituted for the original.

(6) *Official notice.* Official notice may be taken of the official publications of the Department and other Federal agencies, of such matters as are judicially noticed in the courts of the United States, and of any other matter of technical or scientific fact of established character: *Provided, however,* That the parties shall be given adequate notice, at the hearing or by reference in the Administrative Law Judge's Recommended Decision or otherwise, of matters so noticed, and shall be given adequate opportunity to show that such facts are erroneously noticed.

(7) *Offer of proof.* Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof for excluded oral testimony shall consist of a brief statement describing the nature of the evidence excluded. If the evidence consists of an exhibit, it shall be inserted in the record in toto. In the event the Secretary decides that the Administrative

Law Judge's ruling in excluding the evidence was erroneous and prejudicial, the hearing shall be reopened to permit the taking of such evidence.

(e) *Transcripts*—(1) *Filing and certification.* Oral hearings shall be stenographically reported and transcribed. As soon as practicable after the close of the hearing, the Administrative Law Judge shall cause to be transmitted to the Hearing Clerk an original and two copies of the transcript of testimony and the original and copies of exhibits introduced or offered in evidence at the hearing. He shall attach to the original transcript of the evidence a certification stating that the transcript is a true transcript of the testimony offered or received at the hearing, except in such particulars as he shall specify, and that the exhibits transmitted are all the exhibits offered or introduced at the hearing, with such exceptions as he shall specify. A copy of such certificate shall be attached to each of the copies of the transcript of evidence.

(2) *Ordering copies.* Parties to the proceeding or other persons who desire a copy of the transcript of the hearing may place orders at the close of the hearing with the reporter who will furnish and deliver such copies directly to the purchaser upon payment therefor at the rate per page provided by the contract between the reporter and the purchaser.

(f) *Proposed findings of fact, conclusions, and order.* Within such time as the Administrative Law Judge may prescribe, each party may file with the Hearing Clerk proposed findings of fact, conclusions, and order, based solely on the record, and a brief in support thereof. A copy of each such document filed by a party shall be served upon the other party or parties in the manner provided in § 202.27.

(g) *Administrative Law Judge's Recommended Decision.* The Administrative Law Judge, within a reasonable time after the termination of the period allowed to the parties for the filing of proposed findings of fact, conclusions, and orders, and briefs in support thereof, shall prepare on the basis of the record and shall file with the Hearing Clerk, his Recommended Decision, a copy of which shall be served upon each of the parties in the manner provided in § 202.27.

(h) *Exceptions; objections; requests for oral arguments.* (1) Within 30 days after service of the Administrative Law Judge's Recommended Decision, the parties may take exception to any matter set out in such report, and in such case shall file exceptions in writing with the Hearing Clerk, referring to the relevant pages of the transcript, and suggesting corrected findings of fact, conclusions, or order. Within the same period of time, either party may file with the Hearing Clerk a brief statement in writing concerning each of the objections taken to the action of the Administrative Law Judge at the hearing, as set out in § 202.19(d)(2), upon which the party wishes to rely, referring where relevant, to the pages of the transcript. A party may file a brief in support of an exceptions or objections which he may file.

(2) A party, if he files exceptions or a statement of objections, shall state in writing, whether he desires to make an oral argument thereon before the Secretary; otherwise, he shall be deemed to have waived such oral argument.

(i) *Final order.* As soon as practicable after the expiration of the period for filing exceptions, objections, and briefs, or, in case oral argument is had, as soon as practicable thereafter, the Secretary shall issue his final decision and order, including his ruling on any exceptions or objections filed by the parties. The decision and order shall be served upon the parties in the manner provided in § 202.27.

[36 FR 1317, Jan. 27, 1971, as amended at 36 FR 2959, Feb. 13, 1971]

§ 202.20 Depositions.

(a) *Application for taking deposition.* Upon the application of a party to the proceeding, the Administrative Law Judge may at any time after the filing of the complaint, order the taking of testimony by deposition. The application shall be in writing and shall be filed with the Hearing Clerk and shall set forth: (1) The name and address of the proposed deponent; (2) the name and address of the person (referred to in this section as the "officer") qualified under the rules in this part to take depositions, before whom the proposed examination is to be made; (3) the proposed time and place of the examination, which should be at least 15 days after the date of the mailing of the application; and (4) the reasons why such deposition should be taken.

(b) *Administrative Law Judge's order for taking deposition.* If the Administrative Law Judge is satisfied that good cause for taking the deposition is present, he may order its taking. The order shall be filed with the Hearing Clerk and shall be served upon the parties and shall state: (1) The time and place of examination (which shall not be less than 15 days after the filing of the order); (2) the name of the officer before whom the examination is to be made; and (3) the name of the deponent. The officer and the time and place need not be the same as those suggested in the application.

(c) *Qualifications of officer.* The deposition shall be made before the Administrative Law Judge, or before an officer authorized by the law of the United States or by the law of the place of the examination to administer oaths, or before an officer authorized by the Secretary to administer oaths. No deposition shall be made before an officer who is a relative (within the third degree by blood or marriage), employee, attorney, or counsel of any party or who is a relative (within the third degree by blood or marriage) or employee of any attorney or counsel for any party or who is financially interested in the result of the proceeding: *Provided, however,* That an officer who is an employee of the Department and is not a relative of any such party, attorney, or counsel may take depositions in any proceeding under the act.

(d) *Procedure on examination.* The deponent shall be examined under oath or affirmation and shall be subject to cross-examination. The testimony of the deponent shall be recorded by the officer or by some person under his direction and in his presence. In lieu of oral cross-examination, parties may transmit written cross-interrogatories to the officer prior to the examination and the officer shall propound such cross-interrogatories to the deponent.

The applicant must arrange for the examination of the witness either by oral examination or by written interrogatories. If it is found by the Administrative Law Judge, upon the protest of a party to the proceeding, that such party has his residence and his place of business more than 100 miles from the place of the examination and that it would constitute an undue hardship upon such party to be represented at the examination, the applicant will be required to conduct the examination by means of interrogatories. When the examination is conducted by means of interrogatories, copies of the interrogatories shall be served upon the other parties to the proceeding at least 5 days prior to the date set for the examination, and the other parties shall be afforded an opportunity to file with the officer cross-interrogatories at any time prior to the time of the examination.

(e) *Signature by witness.* The transcript of the deposition shall be read to or by the deponent, unless such reading is waived by the parties and the deponent. Any changes which the deponent wishes to make shall be entered upon the deposition by the officer, with a statement of the reasons given by the deponent for such changes. The deposition shall be signed by the deponent, unless the parties by stipulation waive such signing, or unless the deponent is ill or cannot be found or refuses to sign. If the deponent does not sign, the officer shall sign and shall state on the record the reason why the deponent did not sign. In such case the deposition shall be as valid as though signed by the deponent, unless the Administrative Law Judge finds that the reason given by the deponent for his refusal to sign requires rejection of the deposition in whole or in part.

(f) *Certification by officer.* The officer shall certify on the deposition that the deponent was duly sworn by him and that the deposition is a true record of the deponent's testimony. He shall then securely seal the deposition, together with two copies thereof, in an envelope and mail the same by registered or certified mail to the Hearing Clerk.

(g) *Use of depositions.* A deposition ordered and taken in accord with the provisions of this section, or in accord with the provisions of the Rules of Civil Procedure of the Courts of the United States, may be used in a proceeding under the act if the Administrative Law Judge finds that the evidence is otherwise admissible and (1) that the witness is dead; or (2) that the witness is at a greater distance than 100 miles from the place of hearing, unless it appears that the absence of the witness was procured by the party offering the deposition; or (3) that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (4) that the party offering the deposition has endeavored but has been unable to procure the attendance of the witness by subpena; or (5) in any event, upon application and notice that such exceptional circumstances exist as to make it desirable, in the interests of justice and with due regard to the importance of presenting the testimony orally before the Examiner, to allow the deposition to be used. If any part of a deposition is put in evidence by a party, any other party may require the production of the remainder, or any other portion, of the deposition.

§ 202.21 Subpenas.

(a) *Issuance of subpenas.* The attendance of witnesses and the production of documentary evidence from any place in the United States on behalf of any party to the proceeding may, by subpena, be required at any designated place of hearing. Subpenas may be issued by the Secretary or by the Examiner, upon a reasonable showing by the applicant of the grounds, necessity, and reasonable scope thereof.

(b) *Application for subpena duces tecum.* Subpenas for the production of documentary evidence, unless issued by the Administrative Law Judge upon his own motion, shall be issued only upon a verified written application. Such application shall specify, as exactly as possible, the documents desired and shall show their competency, relevancy, and materiality and the necessity for their production.

(c) *Service of subpenas.* Subpenas may be served (1) by a U.S. marshal or his deputy, (2) by any other person who is not less than 18 years of age, or (3) by registering or certifying and mailing a copy of the subpena addressed to the person to be served at his or its last known residence or principal place of business. Proof of service may be made by the return of service on the subpena by the U.S. marshal or his deputy; or, if served by an individual other than a U.S. marshal or his deputy, by an affidavit of such person stating that he personally served a copy of the subpena upon the person named therein; or if the service was by registered or certified mail, by an affidavit made by the person mailing the subpena that it was mailed as provided herein and by the signed return post office receipt: *Provided, however,* That where the subpena is issued on behalf of the Secretary, the return receipt without an affidavit of mailing shall be sufficient proof of service. In making personal service, the person making service shall leave a copy of the subpena with the person subpenaed; the original, bearing or accompanied by the required proof of service, shall be returned to the official who issued the same.

§ 202.22 Fees of witnesses.

Witnesses summoned before the Administrative Law Judge or the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken, and the persons taking the same, shall be entitled to the same fees as are paid for like services in the courts of the United States. Fees shall be paid by the party at whose instance the witness appears or the deposition is taken.

§ 202.23 Argument before Secretary.

(a) *Request for oral argument; waiver.* Unless a party has included in his exceptions or objections a request for oral argument or has filed a separate request for argument prior to the expiration of the last date for filing such exceptions or objections, he shall be deemed to have waived his right to such oral argument.

(b) *Briefs.* The parties may, with the consent of the Secretary, file written briefs either in addition to oral argument or in lieu thereof.

(c) *Scope of argument.* Except where the Secretary determines that argument on additional issues would be helpful, argument, whether oral or on brief, shall be limited to the issues raised by the exceptions and statement of objections. If the Secretary determines that additional issues should be argued, counsel for the parties shall be given reasonable notice of such determination, so as to permit preparation of adequate argument on all the issues to be argued.

§ 202.24 Ex parte discussion.

At no stage of the proceeding between its institution and the issuance of the order shall the Secretary discuss ex parte the merits of the proceeding with any person who is connected with the proceeding in an advocative or in an investigative capacity, or with any representative of such person: *Provided, however,* That the Secretary may discuss the merits of the case with such a person if all parties to the proceeding, or their representatives, have been given an opportunity to be present. Any memorandum or other communication addressed to the Secretary, during the pendency of the proceeding, and relating to the merits thereof, by or on behalf of, any party shall be regarded as argument made in the proceeding and shall be filed with the Hearing Clerk. A copy thereof shall be served upon the other party or parties in the manner provided in § 202.27, and opportunity will be given the other party or parties to file a reply thereto.

§ 202.25 Petitions for reopening hearing; for rehearing or reargument of proceeding; or for reconsideration of order.

(a) *Petition requisite*—(1) *Filing; service.* An application for reopening the hearing to take further evidence, or for rehearing or reargument of the proceeding, or for reconsideration of the order, must be made by petition to the Secretary filed with the Hearing Clerk. A copy thereof shall be served upon the other party or parties in the manner provided in § 202.27. Every such petition must state specifically the grounds relied upon.

(2) *Petition to reopen hearing.* A petition to reopen a hearing to take further evidence may be filed at any time prior to the issuance of the final order. Every such petition shall state briefly the nature and purpose of the evidence to be adduced, shall show that such evidence is not merely cumulative, and shall set forth a good reason why such evidence was not adduced at the hearing.

(3) *Petition to rehear or reargue proceeding, or to reconsider order.* A petition to rehear or reargue the proceeding or to reconsider the order shall be filed within 15 days after the date of the service of the order. Every such petition must state specifically the matters claimed to have been erroneously decided and alleged errors must be briefly stated.

(b) *Procedure for disposition of petitions.* Within 20 days following the service of any petition provided for in this § 202.25, the other party or parties to the proceeding shall file with the Hearing Clerk an answer thereto. As soon as practicable thereafter, the Secretary shall announce his decision whether to grant or to deny the petition. Unless the Secretary shall determine otherwise, operation of the order shall not be stayed pending the decision to grant or to deny the petition. In the event that any such petition is granted by the Secretary, the applicable rules of practice, as set out elsewhere herein, shall be followed. A person filing a petition under this section shall be regarded as the moving party or complainant, although he shall be referred to as the complainant or respondent, depending upon his designation in the original proceeding.

§ 202.26 Filing documents.

All documents or papers required or authorized to be filed, except as provided otherwise in the rules in this Part, shall be filed with the Hearing Clerk in triplicate: *Provided, however,* That, where there are more than two parties to the proceeding, a sufficient number of copies shall be filed so as to provide copies for service upon all parties to the proceeding.

§ 202.27 Service.

Copies of all documents or papers, required or authorized by the rules in this Part to be served on any party to a proceeding, shall be served by the Administrative Law Judge, Hearing Clerk, or some other employee of the United States. Except as is provided otherwise by the rules in this part, service shall be made either: (a) By delivering a copy of the document or paper to the individual to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or any director of the corporation, organization, or association to be served, or to the attorney or agent of record of such individual, partnership, corporation, organization, or association; (b) by leaving a copy of the document or paper at the principal office or place of business of such individual, partnership, corporation, organization, or association, or of his or its attorney or agent of record; or (c) by registering or certifying and mailing a copy of the document or paper, addressed to such individual, partnership, corporation, organization, or association, or to his or its attorney or agent of record, at his or its last known principal office or place of business. Proof of service hereunder shall be made by the affidavit of the person who actually made the service: *Provided, however*, That if the service is made by registered or certified mail, proof of service shall be made by the return post office receipt. The affidavit or post office receipt contemplated hereby shall be filed with the Hearing Clerk and the fact of filing thereof shall be noted in the record of the proceeding.

§ 202.28 Computation of time.

Saturdays, Sundays, and holidays shall be included in computing the time allowed for the filing of any document or paper: *Provided, however*, That when such time expires on a Saturday, Sunday, or a legal holiday (Federal or State), such period shall be extended to include the next following business day.

§ 202.29 Extension of time.

The time for the filing of any document or paper required or authorized under the rules in this part to be filed may be extended by the Administrative Law Judge (before the Administrative Law Judge's Recommended Decision is filed), or by the Secretary (after the Administrative Law Judge's Recommended Decision is filed), if request for such extension of time is made prior to or on the final date allowed for such filing, and if in the judgment of the Administrative Law Judge or the Secretary, as the case may be, after notice to and consideration of the views of the other party, when practicable, there is good reason for the extension.

Subpart C—Rules Applicable to Other Proceedings

§ 202.40 Proceedings prior to reporting for criminal prosecution.

The Director shall, before any violation of this act is reported to any U.S. attorney for institution of a criminal proceeding, notify the person against whom such proceeding is contemplated that action is contemplated, inform him regarding the facts involved, and afford him an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding. Notice shall be served upon such person in the manner provided in § 202.27 of this part. If the person desires to explain the transaction or otherwise to present his views, he shall file with the Director, within 20 days after the service of the notice, an answer, in duplicate, signed by him or by his attorney, or shall request, within the 20 days, an opportunity to express his views orally. The request shall be embodied in a writing signed by the person or by his attorney or agent. Such opportunity to present his views orally shall be afforded at a time and place to be designated by the Director and it shall be given within a time not to exceed 10 days after the date of the filing of the request therefor.

§ 202.41 Notice and hearing prior to promulgation of rules and regulations.

Prior to the promulgation of any rule or regulation contemplated by section 402 of the Act (7 U.S.C. 1592), notice shall be given by publication in the FEDERAL REGISTER of intention to promulgate such rule or regulation and of the time and place of a public hearing to be held with reference thereto. Such hearings shall be conducted by the Director or by such employee or employees of the Department of Agriculture as may be designated to preside thereat, except that hearings with respect to rules or regulations contemplated by section 402(b) of the Act relating to title III of the Act (Foreign Commerce), shall be conducted by the Secretary of the Treasury and the Secretary of Agriculture, acting jointly or separately, or by such employee or employees of the Department of Agriculture or the Department of the Treasury as may be designated to preside thereat. The presiding officer shall conduct the hearing in an orderly and informal manner, according to such procedure as he may announce at the commencement of the hearing. Any rule or regulation promulgated under section 402 of the Act shall become effective on the date fixed in the promulgation, which date shall be not less than 30 days after publication in the FEDERAL REGISTER. Any rule or regulation may be amended or revoked in the same manner as is provided for its promulgation.

§ 202.42 Publication of judgments, settlements, and orders.

After judgment or settlement, or the issuance of a cease and desist order, in any case or proceeding arising under this Act, notice thereof containing any information pertinent to the judgment or settlement or the issuance of the cease and desist order, shall be given by issuing a press release or by such other media as the Administrator of the Agricultural Marketing Service may designate from time to time.

§ 202.43 Proceedings under section 302(a) to show cause why seed or screenings should be admitted into the United States.

When seed or screenings have been refused admission into the United States under the Act or the joint regulations promulgated thereunder, the owner or consignee of such seed or screenings may submit a request to the Director for a hearing in which he may show cause, if any he have, why such seed or screenings should be admitted. Request for such hearing shall be embodied in a writing signed by the owner or consignee or by his attorney or agent. The Director shall thereupon fix, and notify the owner or consignee of, the time when and place at which the hearing will be held. The hearing shall be conducted in an orderly and informal manner by the Director or by a presiding officer duly designated by him, and it shall be governed by such rules of procedure as the presiding officer shall announce at the opening of the hearing. The determination as to whether the seed or screenings may be admitted into the United States shall be made by the Administrator of the Agricultural Marketing Service, within a reasonable time after the close of the hearing, and the owner or consignee of the seed or screenings who requested the hearing and the Secretary of the Treasury shall be duly notified as to such determination.

§ 202.44 Proceedings under section 305(b) to determine whether foreign alfalfa or red clover seed is not adapted for general agricultural use in the United States.

The public hearings which shall be held from time to time for the purpose of determining whether seed of alfalfa or red clover from any foreign country or region is not adapted for general agricultural use in the United States shall be conducted by the Director, or by a presiding officer duly designated by him. Such hearings shall be conducted in an orderly and informal manner in accordance with such procedure as the presiding officer shall announce at the opening of each hearing. The Administrator of the Agricultural Marketing Service shall, within a reasonable time after the close of the public hearing, make and publish his determination as to whether the said seed is adapted for general agricultural use in the United States. Publication of the determination shall be made in the FEDERAL REGISTER, and through such other media as the said Administrator may deem appropriate.

PARTS 203–209 [RESERVED]

SUBCHAPTER L—REQUIREMENTS RELATING TO PURCHASES [RESERVED]

FINDING AIDS

A list of CFR titles, subtitles, chapters, subchapters and parts and an alphabetical list of agencies publishing in the CFR are included in the CFR Index and Finding Aids volume to the Code of Federal Regulations which is published separately and revised annually.

Material Approved for Incorporation by Reference
Table of CFR Titles and Chapters
Alphabetical List of Agencies Appearing in the CFR
Redesignation Tables
Regulations Formerly Appearing in Title 7, Chapter XXVIII—Food Safety and Quality Service, Department of Agriculture
List of CFR Sections Affected

Material Approved for Incorporation by Reference

The Director of the Federal Register has approved under 5 U.S.C. 552(a) and 1 CFR Part 51 the incorporation by reference of the following publications. For more information on incorporation by reference, see the preliminary pages of this volume.

7 CFR CHAPTER I (PARTS 53–209)

AGRICULTURAL MARKETING SERVICE, DEPARTMENT OF AGRICULTURE

	7 CFR
Association of Official Seed Analysts Secretary Treasurer, AOSA, c/o U.S. Department of Agiculture, Seed Standardization Branch, Rm. 213, Bldg. 306, Agricultural Research Center, Beltsville, MD 20705	
Contribution No. 26, Microbiological Assay of Fungicide—Treated Seeds, AOSA Handbook on Seed Testing, revised May 1964.	201.58c
Contribution No. 28, A Standardized Phenol Method for Testing Wheat Seed for Varietal Purity, AOSA Handbook on Seed Testing, revised June 1965.	201.58a(c)

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Redesignation Table 1

Editorial Note: A new Chapter XXVIII, Food Safety and Quality Service, Department of Agriculture was established at 42 FR 32514, June 27, 1977. Accordingly, the following parts have been redesignated and transferred to Chapter XXVIII, Title 7 CFR from Chapter I of Title 7 CFR.

New Part	Old Part
2853 [1]	[1] 53
2855	55
2856	56
2858	58
2859	59
2870	70
2871	171

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[1] At 42 FR 53921, October 4, 1977, Part 2853 was added, redesignated and transferred, in part, from Part 53, Title 7, CFR.

Redesignation Table 2

Editorial Note: Regulations formerly issued by the Food Safety and Quality Service, Department of Agriculture, were transferred to Chapter I-Agricultural Marketing Service at 46 FR 63203, Dec. 31, 1981.

The following table reflects the redesignation and transfer of Chapter XXVIII to Chapter I.

New Part	Old Part
54	2853
55	2855
56	2856
58	2858
59	2859
70	2870
80	2880

Redesignation Table 3

Editorial Note: Regulations formerly issued by the Agricultural Marketing Service, affecting warehouses licensed under provisions of the United States Warehouse Act (USWA), and located in Chapter I, Title 7 CFR, were transferred to Chapter VII-Agricultural Stabilization and Conservation Service of Title 7 CFR, at 50 FR 1814, Jan. 14, 1985.

The following table reflects the redesignation and transfer of the regulations formerly in Chapter I.

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102	736
103	737
104	738
106	739
107	740
108	741
111	742
151	743

Regulations Formerly Appearing in Title 7, Chapter XXVIII—Food Safety and Quality Service, Department of Agriculture

Regulations formerly issued by the Food Safety and Quality Service, Department of Agriculture, were transferred to Chapter I—Agricultural Marketing Service at 46 FR 63203, Dec. 31, 1981.

All sections in former Chapter XXVIII—Food Safety and Quality Service which were affected by documents published in the Federal Register from June 27, 1977 to December 31, 1981, are enumerated in the following list. Entries indicate the nature of changes effected. Page numbers refer to Federal Register pages. The user should consult the entries for chapters and parts as well as sections for revisions.

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2853.27 (a) amended..........56335

2855 Redesignated from 55..........32514

2855.560 (a)(2) removed; (a)(3) and (4) redesignated as (a) (2) and (3); new (a)(2) (ii) and (iii) amended..........57300

2856 Redesignated from 56..........32514

2856.52 (a)(2) removed; (a) (3) through (5) redesignated as (a) (2) through (4); new (a) (2) (ii) and (iii) amended..........57301

2856.54 (a)(1) removed; (a) (2) and (3) redesignated as (a) (1) and (2)..........57301

2858 Redesignated from 58..........32514

2858.43 Revised..........57301

2858.44 Revised..........57301

2858.45 Revised..........57301

2858.47 Revised..........57301

2858.2726—2858.2732 (Subpart T) Revised..........41846

2858.2825—2858.2827 (Subpart W) Added..........56717

2859 Redesignated from 59..........32514

2859.910 (b) amended..........48327

2870 Redesignated from 70..........32514

2870.76 (a)(1) removed; (a) (2) and (3) redesignated as (a (1) and (2)..........57301

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2870.77 (a) (2) removed; (a) (3) through (6) redesignated as (a) (2) through (5); new (a) (2) (ii) and (iii) amended..........57301

2871 Redesignated from 171 (Subchapter G)..........32514

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2855.200 (a) introductory text amended..........60137

2855.560 (a)(2)(vi) amended..........60138

2856.1 Amended..........60138

2856.6 Amended..........60138

2856.31 (a) introductory text amended..........60138

2856.52 (a)(2)(vi) amended..........60138

2856.54 (a)(1)(vi) amended..........60138

2858.1 Amended..........60138

2858.50 (d) amended..........60138

2858.58 (a) introductory text amended..........60138

2858.812 Amended..........60138

2858.2606 Amended..........60138

2858.2657 Amended..........60138

2858.2678 Amended..........60138

2858.2707 Amended..........60138

2858.2726 (b) amended..........60138

2859.5 Amended..........60138

2859.126 Revised..........56213

2859.128 (a) revised..........56213

2859.142 Amended..........60138

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2859.310 (b) amended	60138
2859.539 (b) amended	60138
2859.920 Amended	60138
2859.930 (c) amended	60138
2870.1 Amended	60138
2870.38 (c) amended	60139
2870.40 Amended	60139
2870.73 Amended	60139
2870.76 (a)(1)(v) amended	60139
2870.77 (a)(2)(vi) amended	60139
2871 (Subchapter G) redesignated as 2871 (Subchapter D)	3
2880 (Subchapter E and Part) Added	54921
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2880.13 (c)(3) revised	9371
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2880.25—2880.45 (Subpart) Added	3254
2880.29 Revised	10052
2880.37 (c)(3) existing text designated as introductory text and amended; (c)(3)(i) and (ii) added	10052
2880.50—2880.70 (Subpart) Added	12955

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2853.13 (b) revised	51762
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2853.31 Added	19214
2853.102 Revised	51762
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2853.106 (e)(1) amended	51763
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2858.2610 Correctly added	27435
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2859.161 Added	23641
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2859.502 Heading revised; (c) added	68919
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[illegible]

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[illegible] (b) revised

(b) revised interim [illegible]

(c) confirmed [illegible]

[illegible] Redesignated as [illegible]

[illegible] (a) and (b) [illegible]

[illegible] revised [illegible]

[illegible] confirmed [illegible]

[illegible] Redesignated as [illegible]

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[illegible] (a) revised [illegible]

[illegible] revised interim [illegible]

[illegible] confirmed [illegible]

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List of CFR Sections Affected

All changes in this volume of the Code of Federal Regulations which were made by documents published in the Federal Register since January 1, 1973, are enumerated in the following list. Entries indicate the nature of the changes effected. Page numbers refer to Federal Register pages. The user should consult the entries for chapters and parts as well as sections for revisions.

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